

**SOCIAL SECURITY AMENDMENTS
OF
1977**

Volumes 1 — 3
H.R. 9346
PUBLIC LAW 95-216—95th Congress

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Social Security Administration

SOCIAL SECURITY AMENDMENTS OF 1977

Volumes 1 – 3
H.R. 9346
PUBLIC LAW 95-216—95th Congress

**REPORTS, BILLS,
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Public Law 95-216
95th Congress

An Act

To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, and for other purposes.

Dec. 20, 1977
[H.R. 9346]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Social Security Amendments of 1977".

Social Security
Amendments of
1977.
42 USC 1305
note.

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TITLE I—PROVISIONS RELATING TO THE FINANCING OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

ADJUSTMENTS IN TAX RATES

- 26 USC 3101. SEC. 101. (a) (1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:
- “(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;
- “(2) with respect to wages received during the calendar year 1978, the rate shall be 5.05 percent;
- “(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 5.08 percent;
- “(4) with respect to wages received during the calendar year 1981, the rate shall be 5.35 percent;

“(5) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

“(6) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.70 percent; and

“(7) with respect to wages received after December 31, 1989, the rate shall be 6.20 percent.”.

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

Post, p. 1537.
26 USC 3111.

“(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

“(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

“(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

“(4) with respect to wages paid during the calendar year 1981, the rate shall be 5.35 percent;

“(5) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.40 percent;

“(6) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 5.70 percent; and

“(7) with respect to wages paid after December 31, 1989, the rate shall be 6.20 percent.”.

(3) Section 1401(a) of such Code (relating to rate of tax on self-employment income for purposes of old-age, survivors, and disability insurance) is amended by striking out “a tax” and all that follows and inserting in lieu thereof the following: “a tax as follows:

26 USC 1401.

“(1) in the case of any taxable year beginning before January 1, 1978, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year;

“(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

“(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

“(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1982, the tax shall be equal to 8.00 percent of the amount of the self-employment income for such taxable year;

“(5) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year;

“(6) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8.55 percent of the amount of the self-employment income for such taxable year; and

“(7) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 9.30 percent of the amount of the self-employment income for such taxable year.”.

(b) (1) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking

Hospital
insurance.
26 USC 3101.

out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(2) with respect to wages received during the calendar year 1978, the rate shall be 1.00 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

"(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 1.30 percent;

"(5) with respect to wages received during the calendar year 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent."

26 USC 3111.

(2) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 1.00 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 1.05 percent;

"(4) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 1.30 percent;

"(5) with respect to wages paid during the calendar year 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent."

26 USC 1401.

(3) Section 1401(b) of such Code (relating to tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 1.05 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 1.30 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year."

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 102. (a) (1) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (G) through (J) and inserting in lieu thereof the following: “(G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.65 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported.” 42 USC 401.

(2) Section 201(b)(2) of such Act is amended by striking out clauses (G) through (J) and inserting in lieu thereof the following: “(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989.”

INCREASES IN EARNINGS BASE

SEC. 103. (a) (1) Section 230(a) of the Social Security Act is amended by inserting “or (c)” after “determined under subsection (b)”. 42 USC 430.

(2) Section 230(b) of such Act is amended by striking out “shall be” in the matter preceding paragraph (1) and inserting in lieu thereof “shall (subject to subsection (c)) be”.

(b) Section 230(c) of such Act is amended—

(1) by inserting “(1)” immediately before “the ‘contribution and benefit base’”; and

(2) by striking out “section.” and inserting in lieu thereof the following: “section, and (2) the ‘contribution and benefit base’ with respect to remuneration paid (and taxable years beginning)—

“(A) in 1978 shall be \$17,700,

“(B) in 1979 shall be \$22,900,

“(C) in 1980 shall be \$25,900, and

“(D) in 1981 shall be \$29,700.

For purposes of determining under subsection (b) the ‘contribution and benefit base’ with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) and to be the amount determined (with respect to the years involved) under that subsection. For purposes of determining employer tax liability under section 3221(a) of the Internal Revenue Code of 1954, for purposes of

Infra.
Contribution and
benefit base.

26 USC 3221.

- 26 USC 3211. determining the portion of the employee representative tax liability under section 3211(a) of such Code which results from the application of the 9.5 percent rate specified therein, and for purposes of computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, except with respect to annuity amounts determined under section 3(a) or (3)(f)(3) of such Act, clause (2) and the preceding sentence of this subsection shall be disregarded.”
- 45 USC 231b.
- 42 USC 430. (c) (1) Section 230 of such Act is further amended by adding at the end thereof the following new subsection:
“(d) Notwithstanding any other provision of law, the contribution and benefit base determined under this section for any calendar year after 1976 for purposes of section 4022(b)(3)(B) of Public Law 93-406, with respect to any plan, shall be the contribution and benefit base that would have been determined for such year if this section as in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change.”
- 29 USC 1322. (2) The amendment made by paragraph (1) shall apply with respect to plan terminations occurring after the date of the enactment of this Act.
- Effective date.
42 USC 430 note. (d) (1) The second sentence of section 215(i)(2)(D)(v) of such Act is amended by striking out “is equal to one-twelfth of the new contribution and benefit base” and inserting in lieu thereof “is equal to, or exceeds by less than \$5, one-twelfth of the new contribution and benefit base”.
- 42 USC 415. (2) The third sentence of section 215(i)(2)(D)(v) of such Act is amended by striking out all that follows “clause (iv)” and inserting in lieu thereof “plus 20 percent of the excess of the second figure in the last line of column III as extended under the preceding sentence over such second figure for the calendar year in which the table of benefits is revised.”

EFFECTIVE DATE

26 USC 1401
note.

SEC. 104. The amendments made by this title shall apply with respect to remuneration paid or received, and taxable years beginning, after 1977.

TITLE II—STABILIZATION OF REPLACEMENT RATES IN THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

COMPUTATION OF PRIMARY INSURANCE AMOUNT

42 USC 415.

SEC. 201. (a) Section 215(a) of the Social Security Act is amended to read as follows:

“(a) (1) (A) The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—

“(i) 90 percent of the individual’s average indexed monthly earnings (determined under subsection (b)) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),

“(ii) 32 percent of the individual’s average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exceed the amount established for purposes of this clause by subparagraph (B), and

“(iii) 15 percent of the individual’s average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii), rounded in accordance with subsection (g), and thereafter increased as provided in subsection (i).

“(B) (i) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the calendar year 1979, the amount established for purposes of clause (i) and (ii) of subparagraph (A) shall be \$180 and \$1,085, respectively.

“(ii) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

“(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209 (a)) reported to the Secretary of the Treasury or his delegate for the second calendar year preceding the calendar year for which the determination is made, by

42 USC 409.

“(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year 1977.

“(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest \$1, except that any amounts so established which is a multiple of \$0.50 but not of \$1 shall be rounded to the next higher \$1.

“(C) (i) No primary insurance amount computed under subparagraph (A) may be less than—

“(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in (or deemed to be contained in) this subsection as in effect in December 1978, rounded (if not a multiple of \$1) to the next higher multiple of \$1, or

“(II) an amount equal to \$11.50 multiplied by the individual’s years of coverage in excess of 10, or the increased amount determined for purposes of this subdivision under subsection (i), whichever is greater. No increase under subsection (i), except as provided in subsection (i) (2) (A), shall apply to the dollar amount specified in subdivision (I) of this clause.

“(ii) For purposes of clause (i) (II), the term ‘years of coverage’ with respect to any individual means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to such individual (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by (b) \$900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b) (2) (B) (ii)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 or 1974 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25

“Years of coverage.”

Post, p. 1529.
45 USC 228a.

42 USC 431.

45 USC 228a,
231.*Post*, p. 1554.

Ante, p. 1513;
Post, p. 1554.

Publication in
Federal Register.

Publication in
Federal Register.

percent of the maximum amount which, pursuant to subsection (e), may be counted for such year, or of not less than 25 percent of the maximum amount which could be so counted for such year (in the case of a year after 1977) if section 230 as in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change.

“(D) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b) (3) in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the average of the total wages (as described in subparagraph (B) (ii) (I)) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Federal Register the average of the total wages (as so described) for each calendar year after 1950.

“(2) (A) A year shall not be counted as the year of an individual's death or eligibility for purposes of this subsection or subsection (i) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit or benefits to which he was entitled during such 12 months).

“(B) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount for determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

“(i) the primary insurance amount upon which such disability insurance benefit was based, increased by the amount of each general benefit increase (as defined in subsection (i) (3)), and each increase provided under subsection (i) (2), that would have applied to such primary insurance amount had the individual remained entitled to such disability insurance benefit until the month in which he became so entitled or reentitled or died, or

“(ii) the amount computed under paragraph (1) (C).

“(C) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of such individual's subsequent entitlement to old-age insurance benefits or to a disability insurance benefit based upon a subsequent period of disability, or because of such individual's death), the primary insurance amount so computed may in no case be less than the primary insurance amount with respect to which such former disability insurance benefit was most recently determined.

“(3) (A) Paragraph (1) applies only to an individual who was not eligible for an old-age insurance benefit prior to January 1979 and who in that or any succeeding month—

“(i) becomes eligible for such a benefit,

“(ii) becomes eligible for a disability insurance benefit, or

“(iii) dies,

and (except for subparagraph (C) (i) (II) thereof) it applies to every such individual except to the extent otherwise provided by paragraph (4).

“(B) For purposes of this title, an individual is deemed to be eligible— Eligibility.

“(i) for old-age insurance benefits, for months beginning with the month in which he attains age 62, or

“(ii) for disability insurance benefits, for months beginning with the month in which his period of disability began as provided under section 216(i)(2)(C),

except as provided in paragraph (2)(A) in cases where fewer than 12 months have elapsed since the termination of a prior period of disability. 42 USC 416.

“(4) Paragraph (1) (except for subparagraph (C)(i)(II) thereof) does not apply to the computation or recomputation of a primary insurance amount for— Limitations.

“(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which occurs the event described in clause (i), (ii), or (iii) of paragraph (3)(A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

“(B) an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recommendation would be made the individual's primary insurance amount would be greater if computed or recomputed—

“(i) under section 215(a) as in effect in December 1978, for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1984, or

“(ii) as provided by section 215(d), in the case of an individual to whom such section applies. Post, pp. 1519, 1520.

In determining whether an individual's primary insurance amount would be greater if computed or recomputed as provided in subparagraph (B), (I) the table of benefits in effect in December 1978 shall be applied without regard to any increases in that table which may become effective (in accordance with subsection (i)(4)) for years after 1978 (subject to clause (iii) of subsection (i)(2)(A) but without regard to clauses (iv) and (v) thereof) and (II) such individual's average monthly wage shall be computed as provided by subsection (b)(4):

“(5) For purposes of computing the primary insurance amount (after December 1978) of an individual to whom paragraph (1) does not apply (other than an individual described in paragraph (4)(B)), this section as in effect in December 1978 shall remain in effect, except that, effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to \$11.50. The table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.”

(b) Section 215(b) of such Act is amended to read as follows: 42 USC 415.

“Average Indexed Monthly Earnings; Average Monthly Wage

“(b)(1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

“(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

“(B) the number of months in those years.

“(2) (A) The number of an individual’s benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual’s benefit computation years may not be less than two.

Definitions.

“(B) For purposes of this subsection with respect to any individual—

“(i) the term ‘benefit computation years’ means those computation base years, equal in number to the number determined under subparagraph (A), for which the total of such individual’s wages and self-employment income, after adjustment under paragraph (3), is the largest;

“(ii) the term ‘computation base years’ means the calendar years after 1950 and before—

Post, p. 1542.

“(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 202(j)(1) or otherwise) the first month of that entitlement; or

“(II) in the case of an individual who has died (without having become entitled to old-age insurance benefits), the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

42 USC 414 note.

“(iii) the term ‘number of elapsed years’ means (except as otherwise provided by section 104(j)(2) of the Social Security Amendments of 1972) the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred earlier (but after 1960), the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

“(3) (A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual’s computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

“(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

“(ii) the quotient obtained by dividing—

42 USC 409.

“(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year (after 1976) preceding the earliest of the year of the individual’s death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (except that the year in which the individual dies, or becomes eligible, shall not be considered as such year if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such death or eligibility, but there shall be counted instead the year of the individual’s eligibility for the disability insurance benefit to which he was entitled in such 12-month period), by

“(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his

delegate for the computation base year for which the determination is made.

“(B) Wages paid in or self-employment income credited to an individual’s computation base year which—

“(i) occurs after the second calendar year specified in subparagraph (A) (ii) (I), or

“(ii) is a year treated under subsection (f) (2) (C) as though it were the last year of the period specified in paragraph (2) (B) (ii),

shall be available for use in determining an individual’s benefit computation years, but without applying subparagraph (A) of this paragraph.

“(4) For purposes of determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under section 215(a) or 215(d) as in effect (except with respect to the table contained therein) in December 1978, by reason of subsection (a) (4) (B), this subsection as in effect in December 1978 shall remain in effect, except that paragraph (2) (C) (as then in effect) shall be deemed to provide that ‘computation base years’ include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a) (3) (B) as in effect in January 1979) for an old-age or disability insurance benefit, or, if earlier, the year in which he died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year for such purposes.”

Ante, p. 1514.
Post, p. 1520.

(c) Section 215(c) of such Act is amended to read as follows:

42 USC 415.

“Application of Prior Provisions in Certain Cases

“(c) This subsection as in effect in December 1978 shall remain in effect with respect to an individual to whom subsection (a) (1) does not apply by reason of the individual’s eligibility for an old-age or disability insurance benefit, or the individual’s death, prior to 1979.”

(d) (1) The matter in the text of section 215(d) of such Act which precedes paragraph (1) (C) is amended to read as follows:

Primary
insurance benefit,
computation.

“(d) (1) For purposes of column I of the table appearing in subsection (a), as that subsection was in effect in December 1977, an individual’s primary insurance benefit shall be computed as follows:

“(A) The individual’s average monthly wage shall be determined as provided in subsection (b), as in effect in December 1977 (but without regard to paragraph (4) thereof), except that for purposes of paragraphs (2) (C) and (3) of that subsection (as so in effect) 1936 shall be used instead of 1950.

“(B) For purposes of subparagraphs (B) and (C) of subsection (b) (2) (as so in effect)—

“(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1936 and prior to 1950 shall be divided by the number of years (hereinafter in this subparagraph referred to as the ‘divisor’) elapsing after the year in which the individual attained age 20 and prior to 1951; and

“(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1949 shall be divided by the number of years (hereinafter in this subparagraph referred to as the ‘divisor’) elapsing after 1949 and prior to 1951.

The quotient so obtained shall be deemed to be the individual's wages credited to each of the years which were used in computing the amount of the divisor, except that—

“(iii) if the quotient exceeds \$3,000, only \$3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than \$3,000, shall be deemed credited to the year immediately preceding the earliest year used in computing the amount of the divisor, or (II) if \$3,000 or more, shall be deemed credited, in \$3,000 increments, to the year immediately preceding the earliest year used in computing the amount of the divisor and to each year consecutively preceding that year, with any remainder less than \$3,000 being credited to the year immediately preceding the earliest year to which a full \$3,000 increment was credited; and

“(iv) no more than \$42,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.”

42 USC 415.

(2) Section 215(d)(1)(D) of such Act is amended to read as follows:

“(D) The individual's primary insurance benefit shall be 40 percent of the first \$50 of his average monthly wage as computed under this subsection, plus 10 percent of the next \$200 of his average monthly wage, increased by 1 percent for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by \$1,650 (disregarding any fraction).”

(3) Section 215(d)(3) of such Act is amended (A) by striking out “in the case of an individual” and all that follows and inserting in lieu thereof the following “in the case of an individual who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 220.”

42 USC 420.

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

“(4) The provisions of this subsection as in effect in December 1977 shall be applicable to individuals who become eligible for old-age or disability insurance benefits or die prior to 1978.”

(e) Section 215(e) of such Act is amended—

42 USC 415.

(1) by striking out “average monthly wage” each place it appears and inserting in lieu thereof “average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under section 215(a) as in effect prior to January 1979, average monthly wage,” and

(2) by inserting immediately before “of (A)” in paragraph (1) the following: “(before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A))”

Recomputation.

(f) (1) Section 215(f)(2) of this Act is amended to read as follows:

“(2)(A) If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulation prescribe, recompute the individual's primary insurance account for that year.

(B) For the purpose of applying subparagraph (A) of subsection (a) (1) to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts established by subsection (a) (1) (B) for purposes of clauses (i) and (ii) of subsection (a) (1) (A), the amounts so established that were (or, in the case of an individual described in subsection (a) (4) (B), would have been) used in the computation of such individual's primary insurance amount prior to the application of this subsection.

“(C) A recomputation of any individual's primary insurance amount under this paragraph shall be made as provided in subsection (a) (1) as though the year with respect to which it is made is the last year of the period specified in subsection (b) (2) (B) (ii); and subsection (b) (3) (A) shall apply with respect to any such recomputation as it applied in the computation of such individual's primary insurance amount prior to the application of this subsection.

“(D) A recomputation under this paragraph with respect to any year shall be effective—

“(i) in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or

“(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.”

(2) Section 215(f) (3) of such Act is repealed.

(3) Section 215(f) (4) of such Act is amended to read as follows:

“(4) A recomputation shall be effective under this subsection only if it increases the primary insurance amount by at least \$1.”

(4) Section 215(f) of such Act is further amended by adding at the end thereof the following new paragraphs:

“(7) This subsection as in effect in December 1978 shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) as in effect (without regard to the table in subsection (a)) in that month, and, where appropriate, under subsection (d) as in effect in December 1977. For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a) (4) (B) as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age or disability insurance benefit or died, or for any year thereafter.

“(8) The Secretary shall recompute the primary insurance amounts applicable to beneficiaries whose benefits are based on a primary insurance amount which was computed under subsection (a) (3) effective prior to January 1979, or would have been so computed if the dollar amount specified therein were \$11.50. Such recomputation shall be effective January 1979, and shall include the effect of the increase in the dollar amount provided by subsection (a) (1) (C) (i) (II). Such primary insurance amount shall be deemed to be provided under such section for purposes of subsection (i).”

(g) (1) Section 215(i) (2) (A) (ii) of such Act is amended to read as follows:

“(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—

Repeal.
42 USC 415.

Cost-of-living
computation
quarter.

- 42 USC 427,
428.
- “(I) the benefit amount to which individuals are entitled for that month under section 227 or 228,
- “(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title (including a primary insurance amount determined under subsection (a) (1)(C)(i)(I), but subject to the provisions of such subsection (a) (1)(C)(i) and clauses (iv) and (v) of this subparagraph), and
- “(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 203 (and such total shall be increased, unless otherwise so increased under another provision of this title, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a) (6) and (7) as in effect after December 1978.
- Post*, p. 1524.
- Post*, pp. 1526,
1527.
- The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B); and any amount so increased that is not a multiple of \$0.10 shall be increased to the next higher multiple of \$0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C)(i)(II) of subsection (a)(1) shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Secretary under the last sentence of subparagraph (D)).”
- 42 USC 415.
- (2) Section 215(i)(2)(A) of such Act is amended by adding at the end thereof the following new clauses:
- “(iii) In the case of an individual who becomes eligible for an old-age or disability insurance benefit, or who dies prior to becoming so eligible, in a year in which there occurs an increase provided under clause (ii), the individual’s primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this title and, with respect to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), subject to the provisions of subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph) by the amount of that increase and subsequent applicable increases, but only with respect to benefits payable for months after May of that year.
- “(iv) (I) In the case of an individual who is entitled to an old-age insurance benefit that is based on a primary insurance amount determined under subsection (a)(1)(C)(i)(I), such primary insurance amount shall not be increased under this subsection for any year before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 203 relating to deductions on account of work, or, if earlier, the year in which he attains age 65.
- Ante*, p. 1514.

“(II) In the case of an individual who is entitled to an insurance benefit under subsection (e) or (f) of section 202 that is based on a primary insurance amount determined under subsection (a) (1) (C) (i) (I), such primary insurance amount shall not be increased under this subsection for any year (except as provided in subdivision (III)) before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 203 relating to deductions on account of work, or, if earlier, the year in which he attains age 65.

42 USC 402.

Ante, p. 1514.*Post*, p. 1524.

“(III) Any increase under this subsection which would otherwise be applied to a primary insurance amount except for the provisions of subdivision (II) of this clause, shall apply to such primary insurance amount if, during any month of the year in which the increase occurs, any individual is entitled to a benefit under subsection (d), (g), or (h) of section 202 based on such primary insurance amount, and such primary insurance amount is based upon the wages and self-employment income of a deceased individual.

“(IV) No primary insurance amount determined under subsection (a) (1) (C) (i) (I) shall be increased under this subsection for any year during which no individual was entitled to any benefit based thereon under section 202 or 223 for any month of such year.

Post, pp. 1544, 1547.

“(V) In any case in which an increase under this subsection which occurs during any year applies to a primary insurance amount determined under subsection (a) (1) (C) (i) (I), and such an increase occurring in a later year does not apply to such primary insurance amount on account of the provisions of this clause, any such increase which occurs in a later year which is applicable to such primary insurance amount shall be based upon such primary insurance amount as previously increased under this subsection.

“(v) Notwithstanding clause (iv), no primary insurance amount shall be less than that provided under section 215 (a) (1) without regard to subparagraph (C) (i) (I) thereof, as subsequently increased by applicable increases under this section.”

(3) Section 215(i)(2)(D) of such Act (as amended by section 103(d) of this Act) is further amended by striking out all that follows the first sentence and inserting in lieu thereof the following: “He shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection based on the dollar amount specified in subparagraph (C) (i) (II) of subsection (a) (1) (with such revised primary insurance amounts constituting the increased amounts determined for purposes of such subparagraph (C) (i) (II) under this subsection), or specified in subsection (a) (3) as in effect prior to 1979, and (ii) a revision of the range of maximum family benefits which correspond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 203(a) except for paragraph (3) (B) thereof (or paragraph (2) thereof as in effect prior to 1979)).”

Primary insurance amounts, revision. *Ante*, p. 1514. Publication in Federal Register.

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

“(4) This subsection as in effect in December 1978 shall continue to apply to subsections (a) and (d), as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4) (B) of that subsection (but the

Publication in
Federal Register.

application of this subsection in such cases shall be modified by the application of subdivision (I) in the last sentence of paragraph (4) of that subsection)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4) (B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2) (D) of this subsection as then in effect.”

MAXIMUM BENEFITS

42 USC 403.

SEC. 202. The text of section 203(a) of the Social Security Act is amended to read as follows:

Ante, p. 1514.
Ante, p. 1519.

Post, pp. 1544,
1547.

Ante, p. 1521.

“(a) (1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215(a) (1) or (4), or section 215(d), as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraph (3) (but prior to any increases resulting from the application of paragraph (2) (A) (ii) (III) of section 215(i)), be reduced as necessary so as not to exceed—

“(A) 150 percent of such individual’s primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

“(B) 272 percent of such individual’s primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

“(C) 134 percent of such individual’s primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

“(D) 175 percent of such individual’s primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of \$0.10 shall be increased to the next higher multiple of \$0.10.

“(2) (A) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be \$230, \$332, and \$433, respectively.

“(B) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B) (ii) of section 215(a) (1), with such product being rounded in the manner prescribed by section 215(a) (1) (B) (iii).

Ante, p. 1514.

Publication in
Federal Register.
Ante, p. 1523.

“(C) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 215(i) (2) (D)) is to be applicable under this paragraph to individuals who become eligible for old-age or dis-

ability insurance benefits, or who die (before becoming eligible for such benefits), in the following calendar year.

“(D) A year shall not be counted as the year of an individual’s death or eligibility for purposes of this paragraph or paragraph (7) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual’s eligibility for the disability insurance benefits to which he was entitled during such 12 months).

“(3) (A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 202(k)(2)(A)) be entitled to child’s insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the bases of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

42 USC 402.

“(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

“(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230.

Ante, p. 1514.

“(B) When two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

Ante, p. 1513;

Post, p. 1554.

Post, p. 1542.

42 USC 423.

“(i) the amount determined under this subsection without regard to this subparagraph,

“(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual’s wages and self-employment income, or

“(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under the provisions of section 215(i), an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this title (excluding any part thereof determined under section 202(w)) for the month before such effective month (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of \$0.10 being rounded to the next higher multiple of \$0.10);

42 USC 415.

Ante, pp. 1514,
1521.

Post, pp. 1527,
1529.

42 USC 422.

Post, p. 1541.

42 USC 402.

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 202(k)(2)(A) was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

“(C) When any of such individuals is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) or as a surviving divorced spouse under section 202 (e) or (f) for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

42 USC 422.

“(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

“(5) Notwithstanding any other provision of law, when—

“(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

“(B) such individual's primary insurance amount is increased for the following month under any provision of this title, then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 202(q)) than the total of monthly benefits (after the application of the other provisions of this subsection and section 202 (q)) payable on the basis of such wages and self-employment income for such particular month.

Post, p. 1541.

“(6) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under

Ante, pp. 1514, 1519.

section 215(a) (1) or (4), or section 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a) (1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefits base determined under section 230 for the year in which that month occurs.

Ante, pp. 1514,
1520.

Ante, p. 1513;
Post, p. 1554.

“(7) Subject to paragraph (6), this subsection as in effect in December 1978 shall remain in effect with respect to a primary insurance amount computed under section 215 (a) or (d), as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies (before becoming eligible for such a benefit), after December 1978, shall instead be governed by this section as in effect after December 1978.”.

INCREASE IN OLD-AGE BENEFIT AMOUNTS FOR DELAYED RETIREMENT

SEC. 203. Section 202(w) (1) of Social Security Act is amended— 42 USC 402.

(1) by striking out “If the first month” and all that follows down through “to such individual” in the matter preceding subparagraph (A) and inserting in lieu thereof “The amount of an old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215(a) (3)) which is payable without regard to this subsection to an individual”; and (2) by inserting after “such amount,” in subparagraph (A) the following: “or, in the case of an individual who first becomes eligible for an old-age insurance benefit after December 1978, one-quarter of 1 percent of such amount,”.

Ante, p. 1514.

WIDOW'S AND WIDOWER'S INSURANCE BENEFITS IN CASES OF DELAYED RETIREMENT

SEC. 204. (a) Section 202(e) (2) (A) of the Social Security Act is amended (1) by inserting “(as determined after application of the following sentence)” after “primary insurance amount”, and (2) by adding at the end thereof the following new sentence: “If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 215(f) (5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which he was receiving (or would upon application have received) for the month prior to the month in which he died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w) the number of increment months shall include any month in the months of the calendar year in which he died, prior to the month in which he died, which satisfy the conditions in paragraph (2) of such subsection (w)).”.

Post, p. 1545.

Supra.

42 USC 415.
Ante, pp. 1514,
1521.

- 42 USC 402.
42 USC 415.
Post, pp. 1546,
1547.
42 USC 402.
- (b) Section 202(e)(2)(B)(i) of such Act is amended by inserting "and section 215(f)(5) or (6) were applied, where applicable," after "living".
- (c) Section 202(f)(3)(A) of such Act is amended (1) by inserting "(as determined after application of the following sentence)" after "primary insurance amount", and (2) by adding at the end thereof the following new sentence: "If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 215(f)(5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which she was receiving (or would upon application have received) for the month prior to the month in which she died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w)) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which she died, which satisfy the conditions in paragraph (2) of such subsection (w)."
- 42 USC 415.
Ante, pp. 1514,
1521.
- (d) Section 202(f)(3)(B)(i) of such Act is amended by inserting "and section 215(f)(5) or (6) were applied, where applicable," after "living".
- 42 USC 402.
Ante, p. 1524.
- (e) Section 203(a) of such Act (as amended by section 202 of this Act) is further amended by adding at the end thereof the following new paragraph:
"(8) When—
"(A) one or more persons were entitled (without the application of section 202(j)(1)) to monthly benefits under section 202 for May 1978 on the basis of the wages and self-employment income of an individual,
"(B) the benefit of at least one such person for June 1978 is increased by reason of the amendments made by section 204 of the Social Security Amendments of 1977; and
"(C) the total amount of benefits to which all such persons are entitled under such section 202 are reduced under the provisions of this subsection (or would be so reduced except for the first sentence of section 203(a)(4)),
then the amount of the benefit to which each such person is entitled for months after May 1978 shall be increased (after such reductions are made under this subsection) to the amount such benefits would have been if the benefit of the person or persons referred to in subparagraph (B) had not been so increased."
- Post*, p. 1542.
- 42 USC 402.
Ante, p. 1526.
- Supra*.

CONFORMING AMENDMENTS

- 42 USC 402.
- SEC. 205. (a) Section 202(m)(1) of the Social Security Act is amended to read as follows:
"(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215(a) or (d), as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without
- Ante*, pp. 1514,
1520.

the application of subsection (j) (1) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k) (3), shall not be less than that provided by subparagraph (C) (i) (I) of section 215(a) (1) and increased under section 215(i) for months after May of the year in which the insured individual died as though such benefit were a primary insurance amount." *Post*, p. 1542.

(b) Section 202(w) of such Act (as amended by section 203 of this Act) is further amended— *Ante*, p. 1527.

(1) by inserting after "section 215(a) (3)" in paragraph (1) (in the matter preceding subparagraph (A)) the following: "as in effect in December 1978 or section 215(a) (1) (C) (i) (II) as in effect thereafter"; *Ante*, p. 1514.

(2) by inserting "as in effect in December 1978, or section 215(a) (1) (C) (i) (II) as in effect thereafter," after "paragraph (3) of section 215(a)" in paragraph (5); and

(3) by inserting "(whether before, in, or after December 1978)" after "determined under section 215(a)" in paragraph (5).

(c) Section 217 (b) (1) of such Act is amended by inserting "as in effect in December 1978" after "section 215(c)" each place it appears, and after "section 215(d)". *42 USC 417.*

(d) Section 224(a) of such Act is amended by inserting "(determined under section 215(b) as in effect prior to January 1979)" after "(A) the average monthly wage" in the sentence immediately following paragraph (8). *Post*, p. 1553.
42 USC 424.

(e) Section 1839(c) (3) (B) of such Act is amended to read as follows: *42 USC 1395r.*

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a) (1), based upon average indexed monthly earnings of \$900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on May 1 of the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals on the following May 1."

EFFECTIVE DATE

SEC. 206. The amendments made by the provisions of this title other than sections 201(d), 204, and 205(a) shall be effective with respect to monthly benefits under title II of the Social Security Act payable for months after December 1978 and with respect to lump-sum death payments with respect to deaths occurring after such month. The amendments made by section 201(d) shall be effective with respect to monthly benefits of an individual who becomes eligible for an old-age or disability insurance benefit, or dies, after December 1977. The amendments made by section 204 shall be effective with respect to monthly benefits for months after May 1978. The amendment made by section 205(a) shall be effective with respect to monthly benefits payable for months after December 1978 based on the wages and self-employment income of individuals who die after December 1978. *42 USC 402 note.*
42 USC 401.

TITLE III—OTHER CHANGES IN PROVISIONS RELATING
TO THE OLD-AGE, SURVIVORS, AND DISABILITY IN-
SURANCE PROGRAM

PART A—CHANGES IN EARNINGS TEST

LIBERALIZATION OF EARNINGS TEST FOR INDIVIDUALS AGE 65 AND OVER

42 USC 403.

SEC. 301. (a) Section 203(f)(8)(A) of the Social Security Act is amended by striking out “a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual’s taxable year which ends after the calendar year” and inserting in lieu thereof “the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year”.

(b)(1) Section 203(f)(8)(B) of such Act is amended by striking out “The exempt amount for each month of a particular taxable year shall be” in the matter preceding clause (i) and inserting in lieu thereof “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”.

Post, p. 1552.

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out “the exempt amount” and inserting in lieu thereof “the corresponding exempt amount”.

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out “the exempt amount” and inserting in lieu thereof “an exempt amount”.

(c)(1) Section 203(f)(8) of such Act is further amended by adding at the end thereof the following new subparagraph:

“(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained age 65 before the close of the taxable year involved—

“(i) shall be \$333.33 $\frac{1}{3}$ for each month of any taxable year ending after 1977 and before 1979,

“(ii) shall be \$375 for each month of any taxable year ending after 1978 and before 1980,

“(iii) shall be \$416.66 $\frac{2}{3}$ for each month of any taxable year ending after 1979 and before 1981,

“(iv) shall be \$458.33 $\frac{1}{3}$ for each month of any taxable year ending after 1980 and before 1982, and

“(v) shall be \$500 for each month of any taxable year ending after 1981 and before 1983.”.

42 USC 403 note.

(2) No notification with respect to an increased exempt amount for individuals described in section 203(f)(8)(D) of the Social Security Act (as added by paragraph (1) of this subsection) shall be required under the last sentence of section 203(f)(8)(B) of such Act in 1977, 1978, 1979, 1980, or 1981; and section 203(f)(8)(C) of such Act shall not prevent the new exempt amount determined and published under section 203(f)(8)(A) in 1977 from becoming effective to the extent that such new exempt amount applies to individuals other than those described in section 203(f)(8)(D) of such Act (as so added).

Supra.

Supra.

Supra.

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out “\$200 or the

exempt amount” and inserting in lieu thereof “the applicable exempt amount”.

(e) The amendments made by this section shall apply with respect to taxable years ending after December 1977.

Effective date.
42 USC 403 note.

REPEAL OF EARNINGS LIMITATION FOR INDIVIDUALS AGE 70 AND OVER

SEC. 302. (a) Subsections (c) (1), (d) (1), (f) (1) (B), and (j) of section 203 of the Social Security Act are each amended by striking out “seventy-two” and inserting in lieu thereof “seventy”.

42 USC 403.

(b) Subsection (f) (3) of section 203 of such Act is amended by striking out “age 72” and inserting in lieu thereof “age 70”.

(c) Subsection (h) (1) (A) of section 203 of such Act is amended by striking out “the age of 72” and “age 72” and inserting in lieu thereof in each instance “age 70”.

(d) The heading of subsection (j) of section 203 of such Act is amended by striking out “Seventy-two” and inserting in lieu thereof “Seventy”.

(e) The amendments made by this section shall apply only with respect to taxable years ending after December 31, 1981.

Effective date.
42 USC 403 note.

ELIMINATION OF MONTHLY EARNINGS TEST

SEC. 303. (a) Clause (E) of the last sentence of section 203(f) (1) of the Social Security Act (as amended by section 301(d) of this Act) is further amended by inserting before the period at the end thereof the following: “, if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8)”.

Ante, p. 1530.

42 USC 402.

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits payable for months after December 1977.

Effective date.
42 USC 403 note.

PART B—COVERAGE

STUDY OF UNIVERSAL COVERAGE

SEC. 311. (a) The Secretary of Health, Education, and Welfare is directed to undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the extent of the coverage under the old-age, survivors, and disability insurance programs and under the programs established by title XVIII of the Social Security Act. The study shall examine the feasibility and desirability of covering, under such social security programs, Federal employees, State and local governmental employees, and employees of non-profit organizations who are not now covered. The study shall include alternative methods of accomplishing such coverage together with any appropriate alternatives to extending coverage to such employees.

42 USC 902 note.

42 USC 1395.

(b) With respect to each major alternative method or proposal included in the study described in subsection (a), such study shall also include an analysis of the changes which would be required in the programs established by the Social Security Act and in any other systems or programs (such as retirement, survivorship, disability, and health

42 USC 1305.

programs) affecting the individuals who would be covered under such social security programs under such alternative method or proposal. Such analysis shall include the structural changes required in such programs, the financial impact of such changes, and the effect of such changes on the benefit rights and contribution liabilities of the affected individuals.

Consultation.

(c) In conducting the study required by subsection (a), the Secretary of Health, Education, and Welfare shall consult, as appropriate, with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of Civil Service Commission, and those officials shall provide him with such information and assistance as he may require. The Secretary shall also solicit the views of other appropriate officials and organizations.

Report to
President and
Congress.
Legislative
recommen-
dations.

(d) The Secretary of Health, Education, and Welfare shall submit to the President and the Congress, not later than 2 years after the date of the enactment of this Act, a report of the findings of the study required by subsection (a) together with his recommendations for any appropriate legislative changes.

COVERAGE OF NONPROFIT ORGANIZATIONS WHICH FAILED TO FILE WAIVER
CERTIFICATES

26 USC 3121.

SEC. 312. (a) (1) Section 3121 (k) (5) of the Internal Revenue Code of 1954 (relating to constructive filing of certificate where refund or credit has been made and new certificate is not filed) is amended—

(A) by striking out “prior to the expiration of 180 days after the date of the enactment of this paragraph,” in subparagraph

(B) and inserting in lieu thereof “prior to April 1, 1978,”; and

(B) by striking out “the 181st day after the date of the enactment of this paragraph,” and “such 181st day” in the matter following subparagraph (B) and inserting in lieu thereof in each instance “April 1, 1978.”

(2) Section 3121(k) (7) of such Code (relating to payment of both employee and employer taxes for retroactive period by organization in cases of constructive filing) is amended—

(A) by striking out “prior to the expiration of 180 days after the date of the enactment of this paragraph” and inserting in lieu thereof “prior to April 1, 1978,”;

(B) by striking out “the 181st day after such date,” and inserting in lieu thereof “April 1, 1978,”; and

(C) by striking out “prior to the first day of the calendar quarter in which such 181st day occurs” and inserting in lieu thereof “prior to that date”.

(3) Section 3121(k) (8) of such Code (relating to extended period for payment of taxes for retroactive coverage) is amended—

(A) by striking out “by the end of the 180-day period following the date of the enactment of this paragraph” and inserting in lieu thereof “prior to April 1, 1978,”;

(B) by striking out “within that period” and inserting in lieu thereof “prior to April 1, 1978,”; and

(C) by striking out “on the 181st day following that date” and inserting in lieu thereof “on that date”.

(b) (1) Section 3121(k) (4) of such Code (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended by adding at the end thereof the following new subparagraph:

“(C) In the case of any organization which is deemed under this paragraph to have filed a valid waiver certificate under paragraph (1), if—

Waiver
certificate, filing.

“(i) the period with respect to which the taxes imposed by sections 3101 and 3111 were paid by such organization (as described in subparagraph (A)(ii)) terminated prior to October 1, 1976, or

Ante, p. 1510;
Post, p. 1540.
Ante, p. 1512;
Post, pp. 1537,
1540.

“(ii) the taxes imposed by sections 3101 and 3111 were not paid during the period referred to in clause (i) (whether such period has terminated or not) with respect to remuneration paid by such organization to individuals who became its employees after the close of the calendar quarter in which such period began,

taxes under sections 3101 and 3111—

“(iii) in the case of an organization which meets the requirements of this subparagraph by reason of clause (i), with respect to remuneration paid by such organization after the termination of the period referred to in clause (i) and prior to July 1, 1977; or

“(iv) in the case of an organization which meets the requirements of this subparagraph by reason of clause (ii), with respect to remuneration paid prior to July 1, 1977, to individuals who became its employees after the close of the calendar quarter in which the period referred to in clause (i) began,

which remain unpaid on the date of the enactment of this subparagraph, or which were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph, shall not be due or payable (or, if paid, shall be refunded); and the certificate which such organization is deemed under this paragraph to have filed shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 (which remain unpaid on the date of the enactment of this subparagraph, or were paid after October 19, 1976, but prior to the date of the enactment of this subparagraph) are not due and payable (or are refunded) by reason of the preceding provisions of this subparagraph. In applying this subparagraph for purposes of title II of the Social Security Act, the period during which reports of wages subject to the taxes imposed by sections 3101 and 3111 were made by any organization may be conclusively treated as the period (described in subparagraph (A)(ii)) during which the taxes imposed by such sections were paid by such organization.”

42 USC 401.

(2) Section 3121(k)(4)(A) of such Code is amended by inserting “(subject to subparagraph (C))” after “effective” in the matter following clause (ii).

26 USC 3121.

(3) Section 3121(k)(6) of such Code (relating to application of certain provisions to cases of constructive filing) is amended by inserting “(except as provided in paragraph (4)(C))” after “services involved” in the matter preceding subparagraph (A).

(4) Section 3121(k)(4) of such Code is amended by striking out “date” in subparagraph (B)(ii) and inserting in lieu thereof “first day of the calendar quarter”.

(c) In any case where—

26 USC 3121
note.

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k)(4) of the

Ante, p. 1533;
Post, p. 1535.
26 USC 3121.

Post, p. 1549.
Post, p. 1555.

Ante, p. 1532.

42 USC 401.

Ante, p. 1510;
Post, p. 1540.

Infra.

Ante, p. 1511.
Post, pp. 1537,
1540.
Ante, p. 1532.

Remuneration.
26 USC 3121
note.

Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k)(1) of such Code, on or after the first day of the applicable period described in subparagraph (A)(ii) of such section 3121(k)(4) and before July 1, 1977; and

(2) the service so performed does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the waiver certificate which the organization is deemed to have filed is made inapplicable to such service by section 3121(k)(4)(C) of such Code, but would constitute employment (as so defined) in the absence of such section 3121(k)(4)(C),

the remuneration paid for such service shall, upon the request of such individual (filed on or before April 15, 1980, in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full payment of all of the taxes which would have been paid under section 3101 of such Code with respect to such remuneration but for such section 3121(k)(4)(C) (or by satisfactory evidence that appropriate arrangements have been made for the payment of such taxes in installments as provided in section 3121(k)(8) of such Code), be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for payment of the taxes which it would have been required to pay under section 3111 of such Code with respect to such remuneration in the absence of such section 3121(k)(4)(C).

(d) Section 3121(k)(8) of the Internal Revenue Code of 1954 (relating to extended period for payment of taxes for retroactive coverage), as amended by subsection (a)(3) of this section, is amended to read as follows:

“(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where—

“(A) an organization is deemed under paragraph (4) to have filed a valid waiver certificate under paragraph (1), but the applicable period described in paragraph (4)(A)(ii) has terminated and part or all of the taxes imposed by sections 3101 and 3111 with respect to remuneration paid by such organization to its employees after the close of such period remains payable notwithstanding paragraph (4)(C), or

“(B) an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by March 31, 1978, as described in paragraph (5)(B), or (not having filed such a certificate by that date) is deemed under paragraph (5) to have filed such a certificate on April 1, 1978, or

“(C) an individual files a request under section 3 of Public Law 94-563, or under section 312(c) of the Social Security Amendments of 1977, to have service treated as constituting remuneration for employment (as defined in section 3121(b) and in section 210(a) of the Social Security Act),

the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs, or with respect to service constituting employment by reason of such request, may

be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.”.

(e) The first sentence of section 3 of Public Law 94-563 (in the matter following paragraph (3)) is amended— 26 USC 3121 note.

(1) by inserting “on or before April 15, 1980,” after “filed”; and

(2) by inserting “(or by satisfactory evidence that appropriate arrangements have been made for the repayment of such taxes in installments as provided in section 3121(k)(8) of such Code)” after “so refunded or credited”. *Ante*, p. 1534.

(f) Section 3121(k)(4)(A)(i) of the Internal Revenue Code of 1954 (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended by striking out “or any subsequent date” and inserting in lieu thereof “(or, if later, as of the earliest date on which it satisfies clause (ii) of this subparagraph.)”. 26 USC 3121.

(g) Section 3121(k)(4)(B) of such Code (relating to constructive filing of certificate where no refund or credit of taxes has been made) is amended—

(1) by striking out the period at the end of clause (ii) and inserting in lieu thereof “, or”; and

(2) by adding after clause (ii) the following new clause:

“(iii) the organization, prior to the end of the period referred to in clause (ii) of such subparagraph (and, in the case of an organization organized on or before October 9, 1969, prior to October 19, 1976), had applied for a ruling or determination letter acknowledging it to be exempt from income tax under section 501(c)(3), and it subsequently received such ruling or determination letter and did not pay any taxes under sections 3101 and 3111 with respect to any employee with respect to any quarter ending after the twelfth month following the date of mailing of such ruling or determination letter and did not pay any such taxes with respect to any quarter beginning after the later of (I) December 31, 1975 or (II) the date on which such ruling or determination letter was issued.”.

26 USC 501.

Ante, p. 1510;
Post, p. 1540.
Ante, p. 1511;
Post, pp. 1537,
1540.

(h) The amendments made by subsections (a), (b), (d), (e), (f), and (g) of this section shall be effective as though they had been included as a part of the amendments made to section 3121(k) of the Internal Revenue Code of 1954 by the first section of Public Law 94-563 (or, in the case of the amendments made by subsection (e), as a part of section 3 of such Public Law). Effective date. 26 USC 3121 note.

EXCLUSION FROM COVERAGE OF CERTAIN LIMITED PARTNERSHIP INCOME

SEC. 313. (a) Section 211(a) of the Social Security Act is amended— 42 USC 411.

(1) by striking out “and” at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof “; and”; and

(3) by inserting after paragraph (10) the following new paragraph:

“(11) There shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) of the Internal Revenue Code of 1954 to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.”.

26 USC 707.

- 26 USC 1402. (b) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended—
- (1) by striking out “and” at the end of paragraph (10);
 - (2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof “; and”; and
 - (3) by inserting after paragraph (11) the following new paragraph:
- “(12) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.”
- 26 USC 707. (c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977.
- Effective date.
42 USC 411 note.

EMPLOYEES OF MEMBERS OF RELATED GROUPS OF CORPORATIONS

- 26 USC 3121.
26 USC
3101-3126.
- SEC. 314. (a) Section 3121 of the Internal Revenue Code of 1954 (definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:
- “(s) CONCURRENT EMPLOYMENT BY TWO OR MORE EMPLOYERS.—For purposes of sections 3102, 3111, and 3121(a) (1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.”
- 26 USC 3306. (b) Section 3306 of such Code (relating to definitions in respect of unemployment tax) is amended by adding at the end thereof the following new subsection:
- “(p) CONCURRENT EMPLOYMENT BY TWO OR MORE EMPLOYERS.—For purposes of sections 3301, 3302, and 3306(b) (1), if two or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.”
- 26 USC 3301,
3302.
- (c) The amendments made by this section shall apply with respect to wages paid after December 31, 1978.
- Effective date.
26 USC 3121
note.

TAX ON EMPLOYERS OF INDIVIDUALS WHO RECEIVE INCOME FROM TIPS

- Supra.*
- SEC. 315. (a) Section 3121 of the Internal Revenue Code of 1954 (definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof (after the new subsection added by section 314(a) of this Act) the following new subsection:
- “(t) SPECIAL RULE FOR DETERMINING WAGES SUBJECT TO EMPLOYER TAX IN CASE OF CERTAIN EMPLOYERS WHOSE EMPLOYEES RECEIVE INCOME FROM TIPS.—If the wages paid by an employer with respect to the employment during any month of an individual who (for services performed in connection with such employment) receives tips which constitute wages, and to which section 3102(a) applies, are less than the total amount which would be payable (with respect to such
- Post*, p. 1555.

employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), the wages so paid shall be deemed for purposes of section 3111 to be equal to such total amount.”

Ante, p. 1245.
29 USC 203.

(b) Section 3111 of such Code is amended by inserting “and (t)” after “3121(a)” in subsections (a) and (b).

Ante, pp. 1511,
1512.

(c) The amendments made by this section shall apply with respect to wages paid with respect to employment performed in months after December 1977.

Effective date.
26 USC 3111
note.

REVOCATION OF EXEMPTION FROM COVERAGE BY CLERGYMEN

SEC. 316. (a) Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1954, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed—

26 USC 1402
note.
26 USC 1402.

(1) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

26 USC 1401.

(2) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

42 USC 402,
423.
Post, p. 1542.

Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1954 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding section 1402(c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

26 USC 1401.
42 USC 401.

(b) Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years ending on or after the date of the enactment of this Act, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

26 USC 1401.
42 USC 401.

INTERNATIONAL AGREEMENTS WITH RESPECT TO SOCIAL SECURITY
BENEFITS

SEC. 317. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL AGREEMENTS

"Purpose of Agreement

42 USC 433.

"SEC. 233. (a) The President is authorized (subject to the succeeding provisions of this section) to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of such foreign country.

"Definitions

"(b) For the purposes of this section—

"(1) the term 'social security system' means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, death, or disability; and

"(2) the term 'period of coverage' means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

"Crediting Periods of Coverage; Conditions of Payment of Benefits

"(c) (1) Any agreement establishing a totalization arrangement pursuant to this section shall provide—

"(A) that in the case of an individual who has at least 6 quarters of coverage as defined in section 213 of this Act and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security system of such foreign country may be combined with periods of coverage under this title and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;

"(B) (i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both, and (ii) the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

Post, pp. 1550,
1552.

“(C) that where an individual’s periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual’s periods of coverage which was completed under this title.

“(2) Any such agreement may provide that—

“(A) an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement; and

42 USC 402.

“(B) the benefit paid by the United States to an individual who legally resides in the United States shall, if less when added to the benefit paid by such foreign country than the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a) in the case of an individual becoming eligible for such benefit before January 1, 1979, or based on a primary insurance amount determined under section 215(a)(1)(C)(i)(I) in the case of an individual becoming eligible for such benefit on or after that date, be increased so that the total of the two benefits is equal to the benefit amount which would be so payable.

Ante, p. 1514.

“(3) Section 226 shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

Post, pp. 1543, 1546.

“(4) Any such agreement may contain other provisions which are not inconsistent with the other provisions of this title and which the President deems appropriate to carry out the purposes of this section.

“Regulations

“(d) The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

“Reports to Congress; Effective Date of Agreements

“(e)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress together with a report on the estimated number of individuals who will be affected by the agreement and the effect of the agreement on the estimated income and expenditures of the programs established by this Act.

“(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of the period (following the date on which the agreement is transmitted in accordance with paragraph (1)) during which each House of the Congress has been in session on each of 90 days; except that such agreement shall not become effective if, during such period, either House of the Congress adopts a resolution of disapproval of the agreement.”

(b)(1) Section 1401 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

26 USC 1401.

“(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agree-

Ante, p. 1538.

ment to taxes or contributions for similar purposes under the social security system of such foreign country.”.

26 USC 3101,
3111.

(2) Sections 3101 and 3111 of such Code are each amended by adding at the end thereof the following new subsection:

Ante, p. 1538.

“(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.”.

26 USC 6051.

(3) Section 6051 (a) of such Code is amended by adding at the end thereof the following new sentence: “The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101 (c) and 3111 (c) from the taxes imposed by sections 3101 and 3111.”.

Supra.

26 USC 1401
note.

(4) Notwithstanding any other provision of law, taxes paid by any individual to any foreign country with respect to any period of employment or self-employment which is covered under the social security system of such foreign country in accordance with the terms of an agreement entered into pursuant to section 233 of the Social Security Act shall not, under the income tax laws of the United States, be deductible by, or creditable against the income tax of, any such individual.

MODIFICATION OF AGREEMENT WITH ILLINOIS TO PROVIDE COVERAGE
FOR CERTAIN POLICEMEN AND FIREMEN

42 USC 418 note.
42 USC 418.

SEC. 318. (a) Notwithstanding the provisions of subsection (d) (5) (A) of section 218 of the Social Security Act and the references thereto in subsections (d) (1) and (d) (3) of such section 218, the agreement with the State of Illinois heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1979, be modified pursuant to subsection (c) (4) of such section 218 so as to apply to services performed in policemen's or firemen's positions covered by the Illinois Municipal Retirement Fund on the date of the enactment of this Act if the State of Illinois has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e) (1) of such section 218. For purposes of this section, a retirement system which covers positions of policemen or firemen shall, if the State of Illinois so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, as the case may be.

(b) Notwithstanding the provisions of subsection (f) of section 218 of the Social Security Act, any modification in the agreement with the State of Illinois under subsection (a) of this section, to the extent that it involves services performed by a policeman or fireman in positions covered under the Illinois Municipal Retirement Fund, shall be made effective with respect to—

(1) all services performed by policemen or firemen, in positions to which the modification relates, on or after the date of the enactment of this Act; and

(2) all services performed by such individuals in such positions before such date of enactment with respect to which the State of Illinois has paid to the Secretary of the Treasury the sums pre-

scribed pursuant to subsection (e) (1) of such section 218 at the time or times established pursuant to such subsection (e) (1), if and to the extent that— 42 USC 418.

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Illinois repays to the Secretary of the Treasury the amount of such refund within 90 days after the date that the modification is agreed to by the State and the Secretary of Health, Education, and Welfare.

COVERAGE FOR POLICEMEN AND FIREMEN IN MISSISSIPPI

SEC. 319. Section 218(p) (1) of the Social Security Act is amended by inserting "Mississippi," after "Maryland," 42 USC 418.

COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN NEW JERSEY

SEC. 320. Section 218(d) (6) (C) of the Social Security Act is amended by inserting "New Jersey," after "Nevada,".

COVERAGE OF SERVICE UNDER WISCONSIN RETIREMENT SYSTEM

SEC. 321. Section 218(m) (1) of the Social Security Act is amended by inserting after "Wisconsin retirement fund" the following: "or any successor system".

PART C—BENEFIT AMOUNTS AND ELIGIBILITY

ACTUARIAL REDUCTION OF BENEFIT INCREASES TO BE APPLIED AS OF TIME OF ORIGINAL ENTITLEMENT

SEC. 331. (a) Section 202(q) (4) of the Social Security Act is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following: 42 USC 402.

"then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7)) for each month beginning with the month of such increase in the primary insurance amount shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and after the month for which the individual first became entitled to such monthly benefit reduced under such paragraph (1) or (3)."

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

"(10) For purposes of applying paragraph (4), with respect to monthly benefits payable for any month after December 1977 to an individual who was entitled to a monthly benefit as reduced under paragraph (1) or (3) prior to January 1978, the amount of reduction in such benefit for the first month for which such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based and for all subsequent months (and similarly for all subsequent increases) shall be increased by a percentage equal to the percentage increase in such primary insurance amount (such increase being made in accordance with the provisions of paragraph (8)). In the case of an individual whose reduced benefit under this section is increased as a result of the use of an adjusted reduction period or an additional

adjusted reduction period (in accordance with paragraphs (1) and (3) of this subsection), then for the first month for which such increase is effective, and for all subsequent months, the amount of such reduction (after the application of the previous sentence, if applicable) shall be determined—

“(A) in the case of old-age, wife’s, and husband’s insurance benefits, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period to (ii) the number of months in the reduction period,

“(B) in the case of widow’s and widower’s insurance benefits for the month in which such individual attains age 62, by multiplying such amount by the ratio of (i) the number of months in the reduction period beginning with age 62 multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 percent to (ii) the number of months in the reduction period multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the additional reduction period multiplied by $\frac{43}{240}$ of 1 percent, and

“(C) in the case of widow’s and widower’s insurance benefits for the month in which such individual attains age 65, by multiplying such amount by the ratio of (i) the number of months in the adjusted reduction period multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 percent to (ii) the number of months in the reduction period beginning with age 62 multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted reduction period prior to age 62 multiplied by $\frac{19}{40}$ of 1 percent, plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 percent.

such determination being made in accordance with the provisions of paragraph (8).

“(11) When an individual is entitled to more than one monthly benefit under this title and one or more of such benefits are reduced under this subsection, paragraph (10) shall apply separately to each such benefit reduced under this subsection before the application of subsection (k) (pertaining to the method by which monthly benefits are offset when an individual is entitled to more than one kind of benefit) and the application of this paragraph shall operate in conjunction with paragraph (3).”

42 USC 402.

(c)(1) Section 202(q)(7)(C) of such Act is amended by striking out “because” and all that follows and inserting in lieu thereof “because of the occurrence of an event that terminated her or his entitlement to such benefits.”

(2) Section 202(q)(3)(II) of such Act is amended by inserting “for that month or” after “first entitled”.

Effective date.

42 USC 402 note.

(d) The amendments made by this section shall be effective with respect to monthly benefits payable for months after December 1977.

LIMITATION ON RETROACTIVE BENEFITS

SEC. 332. (a)(1) The first sentence of section 202(j)(1) of the Social Security Act is amended by striking out “An individual” and inserting in lieu thereof “Subject to the limitations contained in paragraph (4), an individual”.

(2) Section 202(j) of such Act is further amended by adding at the end thereof the following new paragraph: 42 USC 402.

“(4) (A) Except as provided in subparagraph (B), no individual shall be entitled to a monthly benefit under subsection (a), (b), (c), (e), or (f) for any month prior to the month in which he or she files an application for benefits under that subsection if the effect of entitlement to such benefit would be to reduce, pursuant to subsection (q), the amount of the monthly benefit to which such individual would otherwise be entitled for the month in which such application is filed.

“(B) (i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would (except for subparagraph (A)) be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual’s entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

“(ii) If the individual applying for retroactive benefits is a widow, surviving divorced wife, or widower and is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow or widower or disabled surviving divorced wife for any month before attaining the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month. 42 USC 423.

“(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible. 42 USC 403.

“(iv) As used in this subparagraph, the term ‘retroactive benefits’ means benefits to which an individual becomes entitled for a month prior to the month in which application for such benefits is filed.” “Retroactive benefits.”

(3) Section 226(h) of such Act is amended by adding at the end thereof the following new paragraph: 42 USC 426.

“(4) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), the entitlement of such individual to widow’s or widower’s insurance benefits under section 202(e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j)(4).” 42 USC 402.

(b) The amendments made by subsection (a) shall be effective with respect to monthly insurance benefits under title II of the Social Security Act to which an individual becomes entitled on the basis of an application filed on or after January 1, 1978. Effective date. 42 USC 402 note. 42 USC 401.

DELIVERY OF BENEFIT CHECKS

SEC. 333. (a) Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"DELIVERY OF BENEFIT CHECKS

42 USC 909.
42 USC 401,
1381.

"SEC. 708. (a) If the day regularly designated for the delivery of benefit checks under title II or title XVI falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5, United States Code) in any month, the benefit checks which would otherwise be delivered on such day shall be mailed for delivery on the first day preceding such day which is not a Saturday, Sunday, or legal public holiday (as so defined), without regard to whether the delivery of such checks would as a result have to be made before the end of the month for which such checks are issued.

42 USC 404,
1383.

"(b) If more than the correct amount of payment under title II or XVI is made to any individual as a result of the receipt of a benefit check pursuant to subsection (a) before the end of the month for which such check is issued, no action shall be taken (under section 204 or 1631 (b) or otherwise) to recover such payment or the incorrect portion thereof."

Effective date.
42 USC 909 note.

(b) The amendment made by subsection (a) of this section shall apply with respect to benefit checks the regularly designated day for delivery of which occurs on or after the thirtieth day after the date of the enactment of this Act.

REDUCED BENEFITS FOR SPOUSES RECEIVING GOVERNMENT PENSIONS

42 USC 402.

SEC. 334. (a) (1) Section 202(b)(2) of the Social Security Act is amended by inserting after "subsection (q)" the following: "and paragraph (4) of this subsection".

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

42 USC 418.

"(4) (A) The amount of a wife's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity, such service did not constitute 'employment' as defined in section 210.

42 USC 410.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments."

"Periodic
benefit."

42 USC 402.

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

(A) by striking out subparagraph (C);

(B) by adding "and" at the end of subparagraph (B); and

(C) by redesignating subparagraph (D) as subparagraph (C).

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

"(2) (A) The amount of a husband's insurance benefit for each month as determined after application of the provisions of subsections (q) and (k) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such husband for such month which is based upon his earnings while in the service of the Federal Government or any State (or political sub-

division thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity, such service did not constitute 'employment' as defined in section 210. 42 USC 418.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments." *Post*, p. 1549.

"(3) Section 202(c)(3) of such Act is amended by inserting after "subsection (q)" the following: "and paragraph (2) of this subsection". 42 USC 402.

(c)(1) Section 202(e)(2)(A) of such Act (as amended by section 204(a) of this Act) is amended by striking out "paragraph (4)" in the first sentence and inserting in lieu thereof "paragraphs (4) and (8)".

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

"(8)(A) The amount of a widow's insurance benefit for each month as determined (after application of the provisions of subsections (q) and (k), paragraph (2)(B), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments." "Periodic benefit."

(d)(1) Section 202(f)(1) of such Act is amended— 42 USC 402.

(A) by striking out subparagraph (D); and

(B) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

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

"(2)(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (k) and (q), paragraph (3)(B), and paragraph (5)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widower for such month which is based upon his earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity, such service did not constitute 'employment' as defined in section 210.

"(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such

<p>“Periodic benefit.”</p>	<p>equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term ‘periodic benefit’ includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.”</p>
<p><i>Ante</i>, p. 1528.</p>	<p>(3) Section 202(f)(3)(A) of such Act (as amended by section 204(c) of this Act) is amended by striking out “paragraph (5)” in the first sentence and inserting in lieu thereof “paragraphs (2) and (5)”.</p>
<p>42 USC 426.</p>	<p>(4) (A) Section 202(f)(7) of such Act is amended by striking out “paragraph (1)(G)” and inserting in lieu thereof “paragraph (1)(F)”.</p> <p>(B) Section 226(h)(1)(B) of such Act is amended by striking out “subparagraph (G) of section 202(f)(1)” and inserting in lieu thereof “subparagraph (F) of section 202(f)(1)”.</p> <p>(5) Section 202(p)(1) of such Act is amended by striking out “subparagraph (C) of subsection (c)(1), clause (i) or (ii) of subparagraph (D) of subsection (f)(1), or”.</p> <p>(6) Section 202(s)(3) of such Act is amended by striking out “Subsections” and all that follows down through “so much” and inserting in lieu thereof “So much”.</p> <p>(e)(1) Section 202(g)(2) of such Act is amended by striking out “Such” and inserting in lieu thereof “Except as provided in paragraph (4) of this subsection, such”.</p> <p>(2) Section 202(g) of such Act is further amended by adding at the end thereof the following new paragraph:</p> <p>“(4)(A) The amount of a mother’s insurance benefit for each month to which any individual is entitled under this subsection (as determined after application of subsection (k)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual’s earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day such individual was employed by such entity, such service did not constitute ‘employment’ as defined in section 210.</p>
<p>42 USC 418.</p> <p><i>Post</i>, p. 1549.</p>	<p>“(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term ‘periodic benefit’ includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.”</p>
<p>“Periodic benefit.”</p>	<p>(f) The amendments made by this section shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months beginning with the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted.</p>
<p>Effective date. 42 USC 402 note. 42 USC 401.</p>	<p>(g)(1) The amendments made by the preceding provisions of this section shall not apply with respect to any monthly insurance benefit payable, under subsection (b), (c), (e), (f), or (g) (as the case may be) of section 202 of the Social Security Act, to an individual—</p>
<p>Effective date. 42 USC 402 note.</p>	<p>(A) to whom there is payable for any month within the 60-month period beginning with the month in which this Act is enacted (or who is eligible in any such month for) a monthly periodic benefit (within the meaning of such provisions) based upon such individual’s earnings while in the service of the Federal Government or any State (or political subdivision thereof, as</p>

defined in section 218(b)(2) of the Social Security Act); and 42 USC 418.

(B) who at time of application for or initial entitlement to such monthly insurance benefit under such subsection (b), (c), (e), (f), or (g) meets the requirements of that subsection as it was in effect and being administered in January 1977.

(2) For purposes of paragraph (1)(A), an individual is eligible for a monthly periodic benefit for any month if such benefit would be payable to such individual for that month if such individual were not employed during that month and had made proper application for such benefit. Eligibility.

(3) If any provision of this subsection, or the application thereof to any person or circumstance, is held invalid, the remainder of this section shall not be affected thereby, but the application of this subsection to any other persons or circumstances shall also be considered invalid. Separability.

SUBSTANTIAL GAINFUL ACTIVITY IN CASE OF BLIND INDIVIDUALS

SEC. 335. Section 223(d)(4) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof." 42 USC 423.

Ante, p. 1530.

REMARriage OF WIDOWS AND WIDOWERS

SEC. 336. (a)(1) Section 202(e)(2)(A) of the Social Security Act (as amended by sections 204(a) and 334(c)(1) of this Act) is amended by striking out "paragraphs (4) and (8)" and inserting in lieu thereof "paragraph (8)". *Ante*, pp. 1527, 1544.

(2) Section 202(e)(3) of such Act is amended by striking out "In the case of a widow or surviving divorced wife who marries" in the matter preceding subparagraph (A) and inserting in lieu thereof "If a widow, before attaining age 60, or a surviving divorced wife, marries".

(3) Section 202(e)(4) of such Act is amended to read as follows: "4) If a widow, after attaining age 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred." 42 USC 402.

(b)(1) Section 202(f)(3)(A) of such Act (as amended by sections 204(c) and 334(d)(3) of this Act) is further amended by striking out "paragraphs (2) and (5)" and inserting in lieu thereof "paragraph (2)". *Ante*, pp. 1528, 1546.

(2) Section 202(f)(4) of such Act is amended by striking out "In the case of a widower who remarries" in the matter preceding subparagraph (A) and inserting in lieu thereof "If a widower, before attaining age 60, remarries".

(3) Section 202(f)(5) of such Act is amended to read as follows: "5) If a widower, after attaining age 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred." Effective date.

(c)(1) The amendments made by this section shall apply only with respect to monthly benefits payable under title II of the Social Security Act for months after December 1978, and, in the case of individuals who are not entitled to benefits of the type involved for December 1978, only on the basis of applications filed on or after January 1, 1979. 42 USC 402 note. 42 USC 401.

Ante, pp. 1545, 1547.
Ante, pp. 1528, 1546.

(2) In the case of an individual who was entitled for the month of December 1978 to monthly insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act to which the provisions of subsection (e)(4) or (f)(5) applied, the Secretary shall, if such benefits would be increased by the amendments made by this section, redetermine the amount of such benefits for months after December 1978 as if such amendments had been in effect for the first month for which the provisions of section 202(e)(4) or 202(f)(5) became applicable.

42 USC 402 note. (d) Where—

42 USC 402.

(1) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act for December 1978 on the basis of the wages and self-employment income of a deceased individual, and one or more of such persons is so entitled under subsection (e) or (f) of such section 202, and

(2) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under subsection (e) or (f) of such section 202 (as amended by this section) for January 1979, and

Ante, p. 1524.

(3) the total of benefits to which all persons are entitled under section 202 of such Act on the basis of such wages and self-employment income for January 1979 is reduced by reason of section 203(a) of such Act as amended by this Act (or would, but for the first sentence of section 203(a)(4), be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after December 1978 shall in no case be less after the application of this section and such section 203(a) than the amount it would have been without the application of this section.

DURATION-OF-MARRIAGE REQUIREMENT

42 USC 416.

SEC. 337. (a) Section 216(d) of the Social Security Act is amended by striking out "20 years" in paragraphs (1) and (2) and inserting in lieu thereof in each instance "10 years".

(b) Section 202(b)(1)(G) of such Act is amended by striking out "20 years" and inserting in lieu thereof "10 years".

Effective date.

42 USC 402 note.

42 USC 401.

(c) The amendments made by this section shall apply with respect to monthly benefits payable under title II of the Social Security Act for months after December 1978, and, in the case of individuals who are not entitled to benefits of the type involved for December 1978, only on the basis of applications filed on or after January 1, 1979.

PART D—STUDY WITH RESPECT TO GENDER-BASED DISTINCTIONS

STUDY OF PROPOSALS TO ELIMINATE DEPENDENCY AND SEX DISCRIMINATION UNDER THE SOCIAL SECURITY PROGRAM

42 USC 902 note.

SEC. 341. (a) The Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, shall make a detailed study, within the Department of Health, Education, and Welfare and the Social Security Administration, of proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the program established under title II of the Social Security Act, and of proposals to bring about equal treatment for men and women in any and all respects under such program, taking into account the practi-

cal effects (particularly the effect upon women's entitlement to such benefits) of factors such as—

- (1) changes in the nature and extent of women's participation in the labor force,
- (2) the increasing divorce rate, and
- (3) the economic value of women's work in the home.

The study shall include appropriate cost analyses.

(b) The Secretary shall submit to the Congress within six months after the date of the enactment of this Act a full and complete report on the study carried out under subsection (a). Report to Congress.

**PART E—COMBINED SOCIAL SECURITY AND INCOME TAX
ANNUAL REPORTING**

Subpart 1—Amendments to Title II of the Social Security Act

ANNUAL CREDITING OF QUARTERS OF COVERAGE

SEC. 351. (a) (1) Sections 209(g)(3), 209(j), 210(a)(17)(A), and 210(f)(4)(B) of the Social Security Act are each amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year". 42 USC 409, 410.

(2) Sections 209(g)(3) and 209(j) of such Act are each further amended by striking out "\$50" and inserting in lieu thereof "\$100".

(3) (A) Section 209 of such Act is amended by striking out "or" at the end of subsection (n), by striking out the period at the end of subsection (o) and inserting in lieu thereof "; or", and by inserting after subsection (o) the following new subsection:

"(p) Remuneration paid by an organization exempt from income tax under section 501 of the Internal Revenue Code of 1954 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than \$100." 26 USC 501.

(B) Section 210(a)(10) of such Act is amended by striking out "(10)(A)" and all that follows down through "(B) Service" and inserting in lieu thereof "(10) Service", and by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(b) Section 212 of such Act is amended to read as follows: 42 USC 412.

"CREDITING OF SELF-EMPLOYMENT INCOME TO CALENDAR YEARS

"SEC. 212. (a) For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year which begins before 1978 shall—

"(1) in the case of a taxable year which is a calendar year, be credited equally to each quarter of such calendar year; and

"(2) in the case of any other taxable year, be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

"(b) For the purposes of determining average indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year which begins after 1977 shall—

"(1) in the case of a taxable year which is a calendar year or which begins with or during a calendar year and ends with or during such year, be credited to such calendar year; and

“(2) in the case of any other taxable year, be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the number of months in each such calendar year which are included completely within the taxable year.

For purposes of clause (2), the calendar month in which a taxable year ends shall be treated as included completely within that taxable year.”

“Quarters of coverage.”
42 USC 413.

Ante, p. 1549.

42 USC 414.

42 USC 416.

Ante, p. 1513;
Post, p. 1554.

(c) Section 213(a)(2) of such Act is amended to read as follows:

“(2) (A) The term ‘quarters of coverage’ means—

“(i) for calendar years before 1978, and subject to the provisions of subparagraph (B), a quarter in which an individual has been paid \$50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with \$100 or more of self-employment income; and

“(ii) for calendar years after 1977, and subject to the provisions of subparagraph (B), each portion of the total of the wages paid and the self-employment income credited (pursuant to section 212) to an individual in a calendar year which equals \$250, with such quarter of coverage being assigned to a specific calendar quarter in such calendar year only if necessary in the case of any individual who has attained age 62 or died or is under a disability and the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) would not otherwise be met.

“(B) Notwithstanding the provisions of subparagraph (A)—

“(i) no quarter after the quarter in which an individual dies shall be a quarter of coverage, and no quarter any part of which is included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage;

“(ii) if the wages paid to an individual in any calendar year equal to \$3,000 in the case of a calendar year before 1951, or \$3,600 in the case of a calendar year after 1950 and before 1955, or \$4,200 in the case of a calendar year after 1954 and before 1959, or \$4,800 in the case of a calendar year after 1958 and before 1966, or \$6,600 in the case of a calendar year after 1965 and before 1968, or \$7,800 in the case of a calendar year after 1967 and before 1972, or \$9,000 in the case of the calendar year 1972, or \$10,800 in the case of the calendar year 1973, or \$13,200 in the case of the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 and before 1978 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

“(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals \$3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or \$4,200 in the case of a taxable year ending after 1954 and before 1959, or \$4,800 in the case of a taxable year ending after 1958 and before 1966, or \$6,600 in the case of a taxable year ending after 1965 and before 1968, or \$7,800 in the case of a taxable year ending after 1967 and before 1972, or \$9,000 in the case of a taxable year beginning after 1971

and before 1973, or \$10,800 in the case of a taxable year beginning after 1972 and before 1974, or \$13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as determined under section 230) which is effective for the calendar year in the case of any taxable year beginning in any calendar year after 1974 and before 1978, each quarter any part of which falls in such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

Ante, p. 1513;
Post, p. 1554.

“(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1978, then, subject to clauses (i) and (v), (I) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed \$100 but are less than \$200; (II) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$200 but are less than \$300; (III) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed \$300 but are less than \$400; and (IV) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are \$400 or more;

“(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter;

“(vi) not more than one quarter of coverage may be credited to a calendar quarter; and

“(vii) no more than four quarters of coverage may be credited to any calendar year after 1977.

If in the case of an individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1978, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 214(a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.”

42 USC 414.

(d) The amendments made by subsection (a) shall apply with respect to remuneration paid and services rendered after December 31,

Effective dates.
42 USC 409 note.

1977. The amendments made by subsections (b) and (c) shall be effective January 1, 1978.

ADJUSTMENT IN AMOUNT REQUIRED FOR A QUARTER OF COVERAGE

Ante, p. 1549.

SEC. 352. (a) Section 213(a)(2)(A)(ii) of the Social Security Act, as amended by section 351(c) of this Act, is amended by striking out "\$250" and inserting in lieu thereof "the amount required for a quarter of coverage in that calendar year (as determined under subsection (d))".

(b) Section 213 of such Act is further amended by adding at the end thereof the following new subsection:

"Amount Required for a Quarter of Coverage

"(d) (1) The amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in any year under subsection (a)(2)(A)(ii) shall be \$250 in the calendar year 1978 and the amount determined under paragraph (2) of this subsection for years after 1978.

Publication in
Federal Register.

"(2) The Secretary shall, on or before November 1 of 1978 and of every year thereafter, determine and publish in the Federal Register the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in the succeeding calendar year. The amount required for a quarter of coverage shall be the larger of—

"(A) the amount in effect in the calendar year in which the determination under this subsection is made, or

"(B) the product of the amount prescribed in paragraph (1) which is required for a quarter of coverage in 1978 and the ratio of the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the determination under this paragraph is made to the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for 1976 (as published in the Federal Register in accordance with section 215(a)(1)(D)), with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such amount is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case."

42 USC 409.

Ante, p. 1514.

Effective date.
42 USC 413 note.

(c) The amendments made by this section shall be effective January 1, 1978.

TECHNICAL AND CONFORMING AMENDMENTS

42 USC 403.

SEC. 353. (a) (1) Section 203(f)(8)(B)(i) of the Social Security Act is amended by striking out "was" wherever it appears and inserting in lieu thereof "is".

(2) Section 203(f)(8)(B)(ii) of such Act is amended to read as follows:

"(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the determination under subparagraph (A) is made to (II) the average of the total wages (as so defined

and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.”

(b)(1) The first sentence of section 218(c)(8) of such Act is amended by striking out “quarter” wherever it appears and inserting in lieu thereof “year”, and by striking out “\$50” and inserting in lieu thereof “\$100”. 42 USC 418.

(2) Section 218(g)(1) of such Act is amended by striking out “quarter” and inserting in lieu thereof “year”.

(3) Section 218(q)(4)(B) of such Act is amended by striking out “any calendar quarters” and inserting in lieu thereof “a calendar year” and by striking out “such calendar quarters” and inserting in lieu thereof “such calendar year”.

(4) Section 218(q)(6)(B) of such Act is amended by striking out “calendar quarters designated by the State in such wage reports as the” and inserting in lieu thereof “period or periods designated by the State in such wage reports as the period or”.

(5) Section 218(r)(1) of such Act is amended—

(A) by striking out “quarter” in the matter before clause (A) and inserting in lieu thereof “year”,

(B) by striking out “in which occurred the calendar quarter” in clause (A), and

(C) by striking out “quarter” in clause (B) and inserting in lieu thereof “year”.

(c)(1) Effective with respect to estimates for calendar years beginning after December 31, 1977, section 224(a) of such Act is amended by striking out the last sentence. *Ante*, p. 1529.

(2) Section 224(f)(2) of such Act is amended to read as follows:

“(2) In making the redetermination required by paragraph (1), the individual’s average current earnings (as defined in subsection (a)) shall be deemed to be the product of—

“(A) his average current earnings as initially determined under subsection (a);

“(B) the ratio of (i) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which such redetermination is made to (ii) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability); and

“(C) in any case in which the reduction was first computed before 1978, the ratio of (i) the average of the taxable wages reported to the Secretary for the first calendar quarter of 1977 to (ii) the average of the taxable wages reported to the Secretary for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). 42 USC 409.

Any amount determined under this paragraph which is not a multiple of \$1 shall be reduced to the next lower multiple of \$1.”.

42 USC 429.

(d) Section 229(a) of such Act is amended—

(1) by striking out “shall be deemed to have been paid, in each calendar quarter occurring after 1956 in which he” and inserting in lieu thereof “, if he”, and

(2) by striking out “wages (in addition to the wages actually paid to him for such service) of \$300.” at the end thereof and inserting in lieu thereof the following: “shall be deemed to have been paid—

“(1) in each calendar quarter occurring after 1956 and before 1978 in which he was paid such wages, additional wages of \$300, and

“(2) in each calendar year occurring after 1977 in which he was paid such wages, additional wages of \$100 for each \$300 of such wages, up to a maximum of \$1,200 of additional wages for any calendar year.”.

42 USC 430.

(e) (1) Section 230(b) of such Act is amended by striking out the last sentence.

(2) Section 230(b) (1) of such Act is amended to read as follows:

“(1) the contribution and benefit base which is in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) is made, and”.

(3) Section 230(b) (2) of such Act is amended to read as follows:

“(2) the ratio of (A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a).”.

42 USC 409.

(f) (1) Effective with respect to convictions after December 31, 1977, section 202(u) (1) (C) of such Act is amended by striking out “quarter” wherever it appears and inserting in lieu thereof “year”.

42 USC 405.

(2) (A) Section 205(c) (1) of such Act is amended by striking out “(as defined in section 211(e))”.

“Period.”

(B) Section 205(c) (1) of such Act is further amended by adding at the end thereof the following new subparagraph:

“(D) The term ‘period’ when used with respect to self-employment income means a taxable year and when used with respect to wages means—

“(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1954 or regulations thereunder (or on reports filed by a State under section 218(e) or regulations thereunder),

“(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

“(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.”.

26 USC 6011.

42 USC 418.

(C) Section 205(o) of such Act is amended by inserting “before 1978” after “calendar year”. 42 USC 405.

(g) The amendments made by subsection (b) of this section shall apply with respect to remuneration paid after December 31, 1977, except that the amendment made by subsection (b)(2) shall apply with respect to notices submitted by the States to the Secretary after the date of the enactment of this Act. The amendments made by subsections (d) and (f)(2) shall be effective January 1, 1978. Except as otherwise specifically provided, the remaining amendments made by this section shall be effective January 1, 1979. Effective dates. 42 USC 418 note.

Subpart 2—Amendments to the Internal Revenue Code of 1954

DEDUCTION OF TAX FROM WAGES

SEC. 355. (a) Section 3102(a) of the Internal Revenue Code of 1954 is amended by striking out “or (C) or (10)”, and by inserting after “is less than \$50;” the following: “and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100;”. 26 USC 3102.

(b)(1) Paragraphs (1) and (2) of section 3102(c) of such Code are each amended by striking out “quarter” wherever it appears and by inserting in lieu thereof “year”. *Infra.*

(2) Paragraph (3) of section 3102(c) of such Code is amended—

(A) by striking out “quarter of the” in subparagraph (A); and

(B) by striking out “quarter” wherever it appears in subparagraphs (B) and (C) and inserting in lieu thereof “year”.

(c) The amendments made by this section shall apply with respect to remuneration paid and to tips received after December 31, 1977. Effective date. 26 USC 3102 note.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 356. (a) Sections 3121(a)(7)(C) and 3121(a)(10) of the Internal Revenue Code of 1954 are each amended by striking out “quarter” wherever it appears and inserting in lieu thereof “year”, and by striking out “\$50” and inserting in lieu thereof “\$100”. 26 USC 3121.

(b) Section 3121(a) of such Code is amended by striking out “or” at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof “; or”, and by adding after paragraph (15) the following new paragraph:

“(16) remuneration paid by an organization exempt from income tax under section 501(a) (other than an organization described in section 401(a) or under section 521 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than \$100.”

(c) Section 3121(b)(10) of such Code is amended by striking out “(10)(A)” and all that follows down through “(B) service” and inserting in lieu thereof “(10) service”, and redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively. 26 USC 501, 26 USC 401, 521.

(d) Sections 3121(b)(17)(A) and 3121(g)(4)(B) of such Code are each amended by striking out “quarter” and inserting in lieu thereof “year”.

Effective date.
26 USC 3121
note.

(e) The amendments made by this section shall apply with respect to remuneration paid and services rendered after December 31, 1977.

Subpart 3—Conforming Amendment to the Railroad Retirement Act of 1974

COMPUTATION OF EMPLOYEE ANNUITIES

45 USC 231b. SEC. 358. (a) The last sentence of section 3(f)(1) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting “paid before 1978” after “in the case of wages”, and

(2) by inserting “and in the case of wages paid after 1977” before the period at the end thereof.

Effective date.
45 USC 231b
note.

(b) The amendments made by this section shall be effective January 1, 1978.

PART F—NATIONAL COMMISSION ON SOCIAL SECURITY

ESTABLISHMENT OF COMMISSION

42 USC 907a. SEC. 361. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the “Commission”).

Membership. (2) (A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

Appointment. (B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

Membership qualifications. (C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

Chairman. (D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

Quorum. (E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

Term. (F) Members of the Commission shall be appointed for a term of two years.

Vacancy. (G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive \$138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b) (1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both;

(F) the need to develop a special Consumer Price Index for the elderly, including the financial impact that such an index would have on the costs of the programs established under the Social Security Act; and

(G) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under

Compensation.

Meetings.

Study,
investigation and
review of
programs.
42 USC 401.
42 USC 1395.
Contents.

42 USC 1305.

this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

Report to
President and
Congress.

(c) (1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

Reports to
President and
Congress;
recommen-
dations.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

Executive
Director,
appointment and
compensation.
5 USC 5316.

(d) (1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

5 USC 5101 *et*
seq., 5331.
Hearings.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

Support services.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis such administrative support services as the Commission may request.

Appropriation
authorization.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

Notice of
meetings.
42 USC 1395dd.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

PART G—MISCELLANEOUS PROVISIONS

APPOINTMENT OF HEARING EXAMINERS

SEC. 371. The persons who were appointed to serve as hearing examiners under section 1631 (d) (2) of the Social Security Act (as in effect prior to January 2, 1976), and who by section 3 of Public Law 94-202 were deemed to be appointed under section 3105 of title 5, United States Code (with such appointments terminating no later than at the close of the period ending December 31, 1978), shall be deemed appointed to career-absolute positions as hearing examiners under and in accordance with section 3105 of title 5, United States Code, with the same authority and tenure (without regard to the expiration of such period) as hearing examiners appointed directly under such section 3105, and shall receive compensation at the same rate as hearing examiners appointed by the Secretary of Health, Education, and Welfare directly under such section 3105. All of the provisions of title 5, United States Code, and the regulations promulgated pursuant thereto, which are applicable to hearing examiners appointed under such section 3105, shall apply to the persons described in the preceding sentence.

42 USC 1383
note.
42 USC 1383.
42 USC 1383
note.

5 USC 101 *et seq.*

REPORT OF ADVISORY COUNCIL ON SOCIAL SECURITY

SEC. 372. Notwithstanding the provisions of section 706(d) of the Social Security Act, the report of the Advisory Council on Social Security which is due not later than January 1, 1979, may be filed at any date prior to October 1, 1979.

42 USC 907 note.
42 USC 907.

TITLE IV—PROVISIONS RELATING TO CERTAIN STATE WELFARE AND SERVICE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

FISCAL RELIEF FOR STATES AND POLITICAL SUBDIVISIONS WITH RESPECT TO COSTS OF WELFARE PROGRAMS

SEC. 401. Section 403 of the Social Security Act is amended—
(1) in subsection (a), by adding at the end thereof the following new paragraph:

42 USC 603.

“In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.”; and

42 USC 1318.

(2) by adding at the end thereof the following new subsection:
“(i) (1) In the case of any calendar quarter which begins after September 30, 1977, and prior to April 1, 1978, the amount payable (as determined under subsection (a) or section 1118, as the case may be) to each State which has a State plan approved under this part shall (subject to the succeeding paragraphs of this subsection) be increased by an amount equal to the sum of the following:

“(A) an amount which bears the same ratio to \$46,750,000 as the amount expended as aid to families with dependent children under the State plan of such State during the month of December 1976 bears to the amount expended as aid to families with dependent children under the State plans of all States during such month, and

“(B) (i) in the case of Puerto Rico, Guam, and the Virgin Islands, an amount equal to the amount determined under subparagraph (A) with respect to such State, or

“(i) in the case of any other State, an amount which bears the same ratio to \$46,750,000, minus the amounts determined under clause (i) of this subparagraph, as the amount allocated to such State under section 106 of the State and Local Fiscal Assistance Act of 1972, for the most recent entitlement period for which allocations have been made under such section prior to the date of the enactment of this subsection, bears to the total of the amounts allocated to all States under such section 106 for such period.

31 USC 1225.

“(2) As a condition of any State receiving an increase, by reason of the application of the foregoing provisions of this subsection, in the amount determined for such State pursuant to subsection (a) or under section 1118 (as the case may be), such State must agree to pay to any political subdivision thereof which participates in the cost of the State’s plan approved under this part, during any calendar quarter with respect to which such increase applies, so much of such increase as does not exceed 100 per centum of such political subdivision’s financial contribution to the State’s plan for such quarter.

42 USC 1318.

“(3) Notwithstanding any other provision of this part, the amount payable to any State by reason of the preceding provisions of this subsection for calendar quarters prior to April 1, 1978, shall be made in a single installment, which shall be payable as shortly after October 1, 1977, as is administratively feasible.”.

INCENTIVE ADJUSTMENTS FOR QUALITY CONTROL IN FEDERAL FINANCIAL PARTICIPATION IN AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAMS

Ante, p. 1560.

SEC. 402. (a) Section 403 of the Social Security Act is amended by adding after subsection (i) (as added by section 401 of this Act) the following new subsection:

“(j) If the dollar error rate of aid furnished by a State under its State plan approved under this part with respect to any six-month period, as based on samples and evaluations thereof, is—

“(1) at least 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be determined without regard to the provisions of this subsection; or

“(2) less than 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be the amount determined without regard to this subsection, plus, of the amount by which such expenditures are less than they would have been if the erroneous excess payments of aid had been at a rate of 4 per centum—

“(A) 10 per centum of the Federal share of such amount, in case such rate is not less than 3.5 per centum,

“(B) 20 per centum of the Federal share of such amount, in case such rate is at least 3.0 per centum but less than 3.5 per centum,

“(C) 30 per centum of the Federal share of such amount, in case such rate is at least 2.5 per centum but less than 3.0 per centum,

“(D) 40 per centum of the Federal share of such amount, in case such rate is at least 2.0 per centum but less than 2.5 per centum,

“(E) 50 per centum of the Federal share of such amount, in case such rate is less than 2.0 per centum.

For purposes of this subsection (i) the term ‘dollar error rate of aid’ means the total of the dollar error rates of aid for (I) payments to ineligible families receiving assistance; (II) overpayments to eligible families receiving assistance; (III) underpayments to eligible families receiving assistance; and (IV) nonpayments to eligible families not receiving assistance due to erroneous terminations or denials, and (ii) the term ‘erroneous excess payments,’ means the total of (I) erroneous payments to ineligible families receiving assistance, and (II) overpayments to eligible families receiving assistance.”

“Dollar error rate of aid.”

(b) Payments may be made under the amendment made by subsection (a) only in the case of periods commencing on or after January 1, 1978.

Effective date.
42 USC 603 note.

ACCESS TO WAGE INFORMATION

SEC. 403. (a) Part A of title IV of the Social Security Act is amended by adding after section 410 the following new section:

“ACCESS TO WAGE INFORMATION

“SEC. 411. (a) Notwithstanding any other provision of law, the Secretary shall make available to States and political subdivisions thereof wage information contained in the records of the Social Security Administration which is necessary (as determined by the Secretary in regulations) for purposes of determining an individual’s eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved under this part, and which is specifically requested by such State or political subdivision for such purposes.

42 USC 611.

“(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.”

(b) Section 3304(a) of the Federal Unemployment Tax Act is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

26 USC 3304.

“(16) (A) wage information contained in the records of the agency administering the State law which is necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) for purposes of determining an individual’s eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved under part A of title IV of the Social Security Act, shall be made available to a State or political subdivision thereof when such information is specifically requested by such State or political subdivision for such purposes, and

42 USC 601.

“(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such information is used only for the purposes authorized under subparagraph (A);”

(c) Section 402(a) of the Social Security Act is amended—

42 USC 602.

(1) by striking out the word “and” at the end of paragraph (27);

(2) by striking out the period at the end of paragraph (28) and inserting in lieu thereof a semicolon and the word “and”; and

- (3) by adding at the end thereof the following new paragraph:
 “(29) effective October 1, 1979, provided that wage information available from the Social Security Administration under the provisions of section 411 of this Act, and wage information available (under the provisions of section 3304(a)(16) of the Federal Unemployment Tax Act) from agencies administering State unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections; except that the State shall not be required to request such information from the Social Security Administration where such information is available from the agency administering the State unemployment compensation laws.”
- 42 USC 611.
 26 USC 3304.
- Effective date.
 42 USC 602 note. (d) The amendments made by this section shall be effective on the date of the enactment of this Act.

STATE DEMONSTRATION PROJECTS

- 42 USC 1315. SEC. 404. Section 1115 of the Social Security Act is amended—
- (1) by inserting “(a)” after “Sec. 1115.”;
- (2) by redesignating subsections (a) and (b) as paragraphs (1) and (2), respectively; and
- (3) by adding at the end thereof the following new subsection:
 “(b) (1) In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individuals who are recipients of public assistance, any State having an approved plan under part A of title IV may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In establishing and conducting any such project the State shall—
- “(A) provide that not more than one such project be conducted on a statewide basis;
- “(B) provide that in making arrangements for public service employment—
- “(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,
- “(ii) such project will not result in the displacement of employed workers,
- “(iii) each participant in such project shall be compensated for work performed by him at an hourly rate equal to the prevailing hourly wage for similar work in the locality where the participant performs such work (and, for purposes of this clause, benefits payable under the State’s plan approved under part A of title IV of the family of which such participant is a member shall be regarded as compensation for work performed by such participant),
- “(iv) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and
- “(v) appropriate workmen’s compensation protection is provided to all participants; and
- “(C) provide that participation in such project by any individual receiving aid to families with dependent children be voluntary.
- 42 USC 601.

“(2) Any State which establishes and conducts demonstration projects under this subsection may, subject to paragraph (3), with respect to any such project—

“(A) waive, subject to paragraph (3), any or all of the requirements of sections 402(a)(1) (relating to statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income), except that no such waiver of 402(a)(8) shall operate to waive any amount in excess of one-half of the earned income of any individual, and 402(a)(19) (relating to the work incentive program);

42 USC 602.

“(B) subject to paragraph (4), use to cover the costs of the project such funds as are appropriated for payment to such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individuals participating in such projects under part A of title IV for any fiscal year in which such projects are conducted; and

“(C) use such funds as are appropriated for payments to States under the State and Local Fiscal Assistance Act of 1972 for any fiscal year in which the project is conducted to cover so much of the costs of salaries for individuals participating in public service employment as is not covered through the use of funds made available under subparagraph (B).

31 USC 1221
note.

“(3) (A) Any State which wishes to establish and conduct demonstration projects under the provisions of this subsection shall submit an application to the Secretary in such form and containing such information as the Secretary may require. Whenever any State submits such an application to the Secretary, it shall at the same time issue public notice of that fact together with a general description of the project with respect to which the application is submitted, and shall invite comment thereon from interested parties and comments thereon may be submitted, within the 30-day period beginning with the date the application is submitted to the Secretary, to the State or the Secretary by such parties. The State shall also make copies of the application available for public inspection. The Secretary shall also immediately publish a summary of the proposed project, make copies of the application available for public inspection, and receive and consider comments submitted with respect to the application. A State shall be authorized to proceed with a project submitted under this subsection—

Application.

Notice.

Copies, public
inspection.

“(i) when such application has been approved by the Secretary (which shall be no earlier than 30 days following the date the application is submitted to him), or

“(ii) 60 days after the date on which such application is submitted to the Secretary unless, during such 60 day period, he denies the application.

“(B) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of title IV, the Secretary may disapprove such waiver. The project with respect to which any such disapproved waiver was made shall be terminated by such State not later than the last day of the month following the month in which such waiver was disapproved.

42 USC 601.

“(4) Any amount payable to a State under section 403 (a) on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

42 USC 607.
Termination.

“(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to ‘unemployment’ as that term is used in section 407.

“(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than September 30, 1980.”.

REIMBURSEMENT FOR ERRONEOUS STATE SUPPLEMENTARY PAYMENT

42 USC 1383
note.

SEC. 405. (a) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized and directed to pay to each State an amount equal to the amount expended by such State for erroneous supplementary payments to aged, blind, or disabled individuals whenever, and to the extent to which, the Secretary through an audit by the Department of Health, Education, and Welfare which has been reviewed and concurred in by the Inspector General of such department determines that—

87 Stat. 155.

42 USC 1382e.

(1) such amount was paid by such State as a supplementary payment during the calendar year 1974 pursuant to an agreement between the State and the Secretary required by section 212 of the Act entitled “An Act to extend the Renegotiation Act of 1951 for one year, and for other purposes”, approved July 9, 1973, or such amount was paid by such State as an optional State supplementation, as defined in section 1616 of the Social Security Act, during the calendar year 1974,

(2) the erroneous payments were the result of good faith reliance by such State upon erroneous or incomplete information supplied by the Department of Health, Education, and Welfare, through the State data exchange, or good faith reliance upon incorrect supplemental security income benefit payments made by such department, and

(3) recovery of the erroneous payments by such State would be impossible or unreasonable.

Appropriation
authorization.

(b) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

TITLE V—MISCELLANEOUS

COVERAGE UNDER MEDICARE OF CERTAIN POWER-OPERATED WHEELCHAIRS

42 USC 1395x.

SEC. 501. (a) Section 1861(s)(6) of the Social Security Act is amended by inserting after “wheelchairs” the following: “(which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual’s medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe)”.

(b) Section 1842(b)(3) of such Act is amended by inserting after the fourth sentence thereof the following new sentence: "With respect to power-operated wheelchairs for which payment may be made in accordance with section 1861(s)(6), charges determined to be reasonable may not exceed the lowest charge at which power-operated wheelchairs are available in the locality."

42 USC 1395u.

Ante, p. 1564.

(c) The amendments made by this section shall be effective in the case of items and services furnished after the date of the enactment of this Act.

Effective date.
42 USC 1395x
note.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS

SEC. 502. (a) Section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is amended—

(1) by inserting "(a)" immediately after "SEC. 328.", and

(2) by adding at the end thereof the following new subsections:

"(b) If an honorarium payable to a person is paid instead at his request to a charitable organization selected by payor from a list of 5 or more charitable organizations provided by that person, that person shall not be treated, for purposes of subsection (a), as accepting that honorarium. For purposes of this subsection, the term 'charitable organization' means an organization described in section 170(c) of the Internal Revenue Code of 1954.

26 USC 170.

"(c) For purposes of determining the aggregate amount of honorariums received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

"(d) For purposes of paragraph (2) of subsection (a), an honorarium shall be treated as accepted only in the year in which that honorarium is received."

(b) The amendments made by subsection (a) shall apply with respect to any honorarium received after December 31, 1976.

Effective date.
2 USC 441i note.

Approved December 20, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-702, pt. I (Comm. on Ways and Means), No. 95-702, pt. II (Comm. on Post Office and Civil Service) and No. 95-837 (Comm. of Conference).

SENATE REPORT No. 95-572 accompanying H.R. 5322 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 123 (1977):

Oct. 26, 27, considered and passed House.

Nov. 1-4, considered and passed Senate, amended.

Dec. 15, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 13, No. 52:

Dec. 20, Presidential statement.

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
UPON SIGNING
H.R. 9346, A BILL TO AMEND
THE SOCIAL SECURITY ACT
AND THE
INTERNAL REVENUE CODE OF 1954

THE INDIAN TREATY ROOM

8:30 A.M. EST

THE PRESIDENT: Since the Social Security system was evolved under the Administration of Franklin Roosevelt, it has been a sacred pact between the employees and employers with the framework established and guaranteed by the Government to be sure that the working people of this Nation had some guarantee of security after they reached the age of retirement, or after they were disabled and unable to earn their own livelihood.

In recent years, because of the highest unemployment rate since the great depression, and the greatest inflation rate since the Civil War, the integrity of the Social Security system has been in doubt. This was an unanticipated drain on the resources of the reserve funds.

When I campaigned throughout the country for two years, one of the most frequent questions asked me by working family members and also by those who had already retired was what can be done to assure us that the integrity of the Social Security system will be maintained. It is a very difficult issue.

It is never easy for a politically elected person to raise taxes. But the Congress has shown sound judgment and political courage in restoring the Social Security system to a sound basis.

This legislation is wise. It has been evolved after very careful and long preparation. It focuses the increased tax burdens which were absolutely mandatory in a way that is of least burden to the families of this Nation who are most in need of a sound income.

The level of payments were raised for those who are wealthier in our country where they can most easily afford increased payments. In the past they have avoided the rate being applied to their much higher income than the average working family.

At the same time, the Congress has removed the unnecessarily stringent limits on how much a retired person can earn and still draw Social Security, the Social Security system for which that person has paid during his or her working years.

The limit will now be increased to \$6,000 per year income over two or three years without losing Social Security benefits.

This legislation also moves to eliminate discrimination because of sex. It removes references to the sex of the recipient.

The most important thing, of course, is that without this legislation the Social Security reserve funds would have begun to be bankrupt in just a year or two, by 1979. Now this legislation will guarantee that from 1980 to the year 2030, the Social Security funds will be sound.

I want to congratulate the Congressional leaders assembled behind me here -- the Chairmen of the appropriate committees, Senator Long, Ullman, Tip O'Neill, our Speaker, Bob Byrd, Senator Nelson, and many other Members who have worked so long and hard to guarantee that this legislation might be passed. It was not an easy task, but I believe that everyone in this Nation who values the concept of Social Security has been well served. And I want to thank these courageous and far-sighted Congressional leaders for their bold and appropriate action.

Mr. Chairman, you all did a good job. (Applause)

(Signing of bill.)

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Before I became President the concern expressed to me most often was the fear that the social security system was in danger of bankruptcy. This fear was backed up by facts:

- A flaw had been introduced into the benefit formula which overcompensated for inflation and threw the system out of actuarial balance.
- Declines in birth rates meant that there would be fewer workers to support the system in the future -- down from over 100 to 1 when the system started, to 14 to 1 in 1950 to 3 to 1 today and to 2 to 1 in the next century.
- The worst recession since the Great Depression and the worst inflation since the Civil War had depleted the reserves in the trust funds to the point that the Disability Trust Fund would be depleted by 1979 and the Old Age and Survivors Trust Fund would run out by 1983.
- A majority of Americans did not believe that their social security benefits would be there when they needed them.

I am happy to be here today to sign legislation which will reassure the 33 million people who are receiving benefits and the 104 million workers now making contributions that the social security system will be financially sound well into the next century.

I congratulate the members of Congress for the courage and leadership they have shown in enacting this bill this year. The public overwhelmingly supports the purposes of the social security system and that a clear majority feel that the Congress is showing real courage in raising additional taxes to save the system according to a recent poll.

Although the final bill differs in some respects from the proposals I submitted last May it does fulfill all of the campaign promises I made on social security:

- Eliminates the yearly deficits of the social security system and restores the trust funds reserves to healthy levels.

more

(OVER)

- The delayed retirement credit is increased to reward those who choose to work beyond age 65 before claiming benefits.
- Corrects the flaw in the benefit formula and protects the purchasing power of present and future beneficiaries.
- Raises additional money primarily through increases in the taxable wage base making the system more progressive and minimizing the added burden for low and moderate income workers.
- Eases the earnings test, permitting recipients to earn as much as \$6,000 without losing any benefits and those over 70 to continue with full benefits no matter how much they might earn.
- Several provisions are of great importance to women: it removes from the Social Security Act references to the sex of applicants; permits older persons to remarry without the fear of losing some of their social security benefits; and it makes homemakers who are divorced after 10 years of marriage eligible for benefits.
- Most importantly, it insures our senior citizens today that their Social Security benefits will be protected during their retirement and further assures today's workers that the hard-earned taxes they are paying into the system today will be available upon their retirement.

Taken together these are tremendous achievements and represent the most important social security legislation since the program was established.

The social security program is a pact between workers and their employers that they will contribute to a common fund to insure that those who are no longer a part of the work force will have a basic income on which to live. It represents our commitment as a society to the belief that workers should not live in dread that a disability, death or old age could leave them or their families destitute.

This bill was enacted this year in a spirit of compromise. The taxes are higher than those I proposed, but I believe that much of the increase can be offset by my income tax reduction proposals next month and additional reform in the social security system. I am happy that the Congress accepted my advice and avoided costly benefit increases at this time.

more

(OVER)

It should be clear to everyone that although we may have differed on some of the means to be used, we have been in full agreement on the goals of this legislation. I am particularly grateful to Senator Long, Congressman Ullman, Senator Nelson, Congressman Burke and the House and Senate leadership for the efforts they put into making this bill a reality. I am pleased at how quickly we were able to move this massive piece of legislation through the Congress so that it could be signed today.

It is with great pleasure that I sign H.R. 9346.

CONGRESSMAN JIM GUY TUCKER: Mr. President, I am flattered. I guess as one of the younger members of this crowd and of the Congress --

THE PRESIDENT: You will pay more into the system.
(Laughter)

CONGRESSMAN TUCKER: That is right. Frankly, I hope the time is not too far distant when I can pay more on my own salary, as younger people all over the country have to pay on their salary.

My father was manager of the Social Security system in Arkansas all my life before his death. I grew up with a respect and understanding of Social Security and its importance to the working people of this country.

I am very proud that it is a Democratic President, Democratic committee chairman, Democratic Congressional leaders and a Democratic Administration that could give us this painful but absolutely necessary help to the Social Security system of this country. It is why I supported you and voted for you. I knew you had the guts to do it. I am proud to be here today.
(Applause)

THE PRESIDENT: Thank you.

MORE

SENATOR RUSSELL LONG: Mr. President, nobody really enjoys voting for taxes if he has to run for office. I know you know that as well as all the rest of us do. But in view of the fact we are going to be paying anyway, I think that most people would prefer to pay a little more if need be, as they will, and have a sound program rather than be worried about whether the program will be financed.

Nelson Cruikshank and some others who were advocating the original Social Security bill here, and Wilbur Cohen was here, who was appointed back at that time, and they advocated and visualized a system where people would be free of fear in old age. That is what we are doing with this bill. We are trying to participate with you. (Applause)

CONGRESSMAN AL ULLMAN: Mr. President, I am sorry that our subcommittee chairman Jim Burke isn't here. He is back in Massachusetts, but he was chairman of the subcommittee. This has been a long, onerous, difficult task, as you know. It is never easy to set a program straight by adding taxes, but this does it in a very responsible way and I wanted to mention Jim Burke. He has been very important in this operation.

THE PRESIDENT: Well, with the help of these same leaders of Congress in 1978 we will have tax reductions -- (Laughter) which for every taxpayer will result in a lesser tax burden, even in spite of the fact that this does increase taxes to some degree. But I know that all of these leaders will be working with me to give us a tax reform package in 1978 which will be more progressive in nature -- that is, put the burden of taxation where it can best be borne -- will be greatly simplified and will also be substantially reduced.

So we are looking forward to good tax reductions in 1978.

CONGRESSMAN AL ULLMAN: That will be easy to pass.

THE PRESIDENT: Thank you very much, everybody.

END (AT 8:40 A.M. EST)

95th Congress }
1st Session }

COMMITTEE PRINT

Summary of H.R. 9346, the
Social Security Amendments of
1977 as Passed by the Congress
(P.L. 95-216)

Prepared by the Staff of the
COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*



DECEMBER 23, 1977

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1977

20-215

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SUMMARY OF H.R. 9346, THE SOCIAL SECURITY AMENDMENTS OF 1977,
AS PASSED BY THE CONGRESS¹

Tax rates.—The bill includes a new social security tax rate schedule which increases the rates in 1979, 1981, 1982, and 1990 to provide additional financing. Tax rates for the self-employed are increased so as to restore the original level of 1½ times the employee rate for the old-age, survivors, and disability portion of the tax, effective in 1981. In addition, H.R. 9346 provides for a reallocation of income to the disability trust fund which would have been exhausted in about a year under present law. The tax rate schedule is as follows:

¹ This bill was signed into law on December 20, 1977, as Public Law 95-216.

TAX RATES FOR THE SOCIAL SECURITY TRUST FUNDS

[In percent]

Calendar year	Present law					H.R. 9346				
	OASI ¹	DI ²	OASDI	HI ³	Total	OASI ¹	DI ²	OASDI	HI ³	Total
EMPLOYERS AND EMPLOYEES, EACH										
1977.....	4.375	0.575	4.95	0.90	5.85	4.375	0.575	4.95	0.90	5.85
1978.....	4.350	.600	4.95	1.10	6.05	4.275	.775	5.05	1.00	6.05
1979-80.....	4.350	.600	4.95	1.10	6.05	4.330	.750	5.08	1.05	6.13
1981.....	4.300	.650	4.95	1.35	6.30	4.525	.825	5.35	1.30	6.65
1982-84.....	4.300	.650	4.95	1.35	6.30	4.575	.825	5.40	1.30	6.70
1985.....	4.300	.650	4.95	1.35	6.30	4.750	.950	5.70	1.35	7.05
1986-89.....	4.250	.700	4.95	1.50	6.45	4.750	.950	5.70	1.45	7.15
1990-2010.....	4.250	.700	4.95	1.50	6.45	5.100	1.100	6.20	1.45	7.65
2011 and later.....	5.100	.850	5.95	1.50	7.45	5.100	1.100	6.20	1.45	7.65
SELF-EMPLOYED PERSONS										
1977.....	6.185	0.815	7.0	0.90	7.9	6.1850	0.8150	7.0	0.90	7.9
1978.....	6.150	.850	7.0	1.10	8.1	6.0100	1.0900	7.1	1.00	8.1
1979-80.....	6.150	.850	7.0	1.10	8.1	6.0100	1.0400	7.05	1.05	8.1
1981.....	6.080	.920	7.0	1.35	8.35	6.7625	1.2375	8.00	1.30	9.3
1982-84.....	6.080	.920	7.0	1.35	8.35	6.8125	1.2375	8.05	1.30	9.35
1985.....	6.080	.920	7.0	1.35	8.35	7.1250	1.4250	8.55	1.35	9.90
1986-89.....	6.010	.990	7.0	1.5	8.5	7.1250	1.4250	8.55	1.45	10.00
1990-2010.....	6.010	.990	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75
2011 and later.....	6.000	1.000	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75

¹ Old-age and survivors insurance.

² Disability insurance.

³ Hospital insurance (part A of medicare).

Tax base.—The bill also would increase the taxable wage base above present law levels in 1979, 1980, and 1981. After 1981, the base would be increased annually in line with wage levels, as under present law. Under the bill, as under present law, the tax base would be the same for employers, employees, and self-employed. The tax base schedule for employers, employees and the self-employed under present law and under the bill is shown below:

CONTRIBUTION AND BENEFIT BASE

Calendar year	Under present law	Under H.R. 9346
1977.....	\$16,500	\$16,500
1978.....	17,700	17,700
1979.....	¹ 18,900	22,900
1980.....	¹ 20,400	25,900
1981.....	¹ 21,900	29,700
1982.....	¹ 23,400	¹ 31,800
1983.....	¹ 24,900	¹ 33,900
1984.....	¹ 26,400	¹ 36,000
1985.....	¹ 27,900	¹ 38,100
1986.....	¹ 29,400	¹ 40,200
1987.....	¹ 31,200	¹ 42,000

¹ Estimated amount under automatic provisions

Railroad retirement system and Pension Benefit Guaranty Corporation.—The bill contains a provision to guarantee that the new social security financing provisions which increase the taxable earnings base would not increase the employer tax liability to finance tier II benefits (nor would it increase the amount of those benefits) under the railroad retirement system. Tier II benefits are those paid to supplement the tier I payments which correspond to basic social security benefits. Similarly, the bill provides that the increases in the earnings base specified in the bill would not increase the maximum amount of pension insured by the Pension Benefit Guaranty Corporation established under the Employee Retirement Income Security Act of 1974.

Decoupling and new wage-indexed formula.—The bill provides that the automatic cost-of-living increase provisions will in the future apply only to those already on the benefit rolls at the time of each increase. (Under present law, the increases raise the benefit formula for future retirees as well as for those on the rolls.) For future retirees, the bill adopts a new benefit formula under which benefit amounts would be related to the earnings an individual had under social security with an adjustment to reflect changing wage levels during his working years. The new system would index a worker's earnings to reflect annual increases in average earnings levels up to the second year before eligibility (age 62, death, or disability).

The new benefit computation will provide a benefit level for 1979 averaging about 5 percent lower than the average anticipated under present law. In the future benefits will be kept at approximately the 1976 relationship to preretirement earnings. In order to provide an orderly transition from the present computation procedures to the new computation, the bill guarantees that, for the first 5 years, 1979-1983, retirement benefits paid will not be less than would be paid under the benefit table in effect for December 1978.

The transition provision will not be applicable to disability and survivor cases. As under present law, benefits would continue to be increased according to the increases in the cost-of-living after a person reaches age 62 or becomes disabled, or in the case of survivor's benefits, after the time of the worker's death.

Minimum benefit.—The minimum benefit for future beneficiaries would be frozen at the 1979 dollar amount (about \$121 for an individual). In the future minimum benefit would be adjusted for annual cost-of-living increases only after the individual starts receiving benefits.

Special minimum.—The bill increases the special minimum benefit which is paid to some long-term, low-paid workers. Under present law this benefit is equal to \$9 times the number of years coverage a worker has in excess of 10 and up to 30, but it is not subject to annual cost-of-living increases. The bill would increase the \$9 figure to \$11.50, which would make the highest amount payable under the provision \$230 a month. Also, H.R. 9346 would make the special minimum benefit subject to annual cost-of-living increases in the future.

Delayed retirement credit.—Present law provides that retirement benefits are increased 1 percent a year for each year that a worker continues to work beyond age 65 without taking his benefits. The bill would increase this to 3 percent; it would apply beginning in 1982. Effective June 1978, the bill would also make the delayed retirement credit applicable to widows and widowers benefits.

Retirement test changes.—The bill would raise to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, \$5,500 in 1981, and \$6,000 in 1982 the annual amount of earnings a beneficiary, age 65 to 72, may have without having any benefits withheld. After 1982, the limitation would be adjusted automatically on the basis of earnings levels as under present law. The retirement test of present law, which is to rise from \$3,000 this year to \$3,240 in 1978 with continuing automatic increases thereafter, would continue to apply to beneficiaries under age 65.

The age at which individuals may receive full benefits without regard to their earnings would be reduced from 72 to 70 beginning in 1982.

The bill would eliminate the monthly exception to the retirement test—the provision in present law under which full social security benefits are paid for any month in which a person does not engage in substantial self-employment and earns one-twelfth of the annual retirement test amount, or less, regardless of total earnings for the year. However, the monthly exception would be retained for the first year in which a worker begins to receive retirement benefits.

Coverage study.—The bill provides for a comprehensive study of the question of expanding coverage under social security by bringing

under the system all Federal employees, and the remainder of State and local government employees and employees of nonprofit organizations not now covered. The study is to include methods of coordinating social security coverage with those retirement systems which now apply to the public employees involved. The study would be under the direction of the Secretary of Health, Education, and Welfare who is to consult with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Civil Service Commission. The HEW Secretary is directed to complete the study and submit a report with recommendations to the President and to Congress within 2 years after enactment of the bill.

Employees of nonprofit organizations.—The bill contains provisions designed to correct some unintended effects of Public Law 94-563 enacted in 1976 to deal with problems of nonprofit organizations that had been paying social security taxes incorrectly because they had not filed the necessary waivers with the Internal Revenue Service to make the payments legal.

One provision in the bill would forgive back taxes due, up to June 30, 1977, on behalf of nonprofit organizations which ceased paying social security taxes after they had found they were not required to do so, but did not receive a refund of these taxes.

Another provision would extend to March 31, 1978, the period during which nonprofit organizations that had received a refund of social security taxes could file a waiver certificate and list only those employees who had wanted to be covered under social security. Under this waiver, they would owe back taxes only on the listed employees. The right to file such a waiver under Public Law 94-563 expired April 18, 1977.

Investment income under limited partnership.—In recent years, a growing number of businesses have offered limited partnerships as a means of acquiring social security coverage solely through the income on investments in such partnerships. The bill excludes from social security coverage the distributive share of income or loss which a limited partner receives from a trade or business.

Taxation of related corporations.—The bill provides that a group of related corporations concurrently employing a worker would be considered as a single employer if one of the group serves as a common paymaster for the entire group. This would mean that the group of corporations would have to pay no more in social security and unemployment taxes for a single worker than a single employer pays.

Coverage of tips.—Under social security, tip income (if over \$20 a month) is taxed to the employee alone. Under the bill, the employer will also be taxed on tip income up to the amount that, combined with the employee's salary, equals the minimum wage under the Fair Labor Standards Act.

Clergymen.—The bill would permit clergymen who previously refused social security coverage a new opportunity to come under the system as self-employed persons.

International Social Security Agreements (totalization).—Included in the bill is a provision which would authorize the President to enter into bilateral agreements with interested countries providing for limited coordination of the U.S. social security system with systems of other countries. The agreements, known as totalization agreements,

would eliminate dual social security coverage for the same work in each country covered by an agreement, and would enable individuals who work for periods in each of the countries covered by an agreement to qualify for coordinated benefits in situations where they now are not eligible for benefits in one or both of the countries involved. The United States already has negotiated agreements with Italy and West Germany which could be put into effect under this provision. Each agreement will have to be submitted to Congress for 90 days while it is in session before it can take effect; during that period either the House or Senate can veto the agreement by majority vote.

Illinois policemen and firemen.—The bill would allow approximately 400 Illinois policemen and firemen to get credits for past payments into the social security system (and future coverage) even though the applicable law did not permit such payments when they were made.

Mississippi policemen and firemen.—The bill would authorize social security coverage for Mississippi policemen and firemen who previously were excluded from the system.

New Jersey public employees.—The bill would add New Jersey to the list of States which are permitted to hold referendums among public employees for divided coverage under social security. Those voting for coverage would be brought under social security; those voting against would remain out of the system.

Wisconsin public employees.—The bill would authorize a consolidated public employee group in Wisconsin to continue under social security on the same terms which applied to three groups before they were merged into the consolidated organization.

Cost-of-living increases for early retirees.—Under present law, a retiree who begins receiving benefits between ages 62 and 65 has his monthly payment permanently reduced on an actuarial basis to take account of the longer period that he will receive benefits. However, when a subsequent cost-of-living increase is effective, the benefit increase is not based on his reduced benefit amount. For example, at age 65 and later, each increase is based on his full (unreduced) benefit. The bill would apply to cost-of-living increases the same actuarial reduction that was applied to their original monthly benefit.

Limitation on retroactive benefits.—Under present law a person who files an application after he is first eligible can get benefits for a retroactive period up to 12 months before the month in which the application is filed. However, this can result in some cases in a permanent reduction in his monthly benefit. The bill would eliminate retroactive payments where the result would be a permanently reduced benefit.

Benefit payment dates.—The bill provides that social security and supplemental security income benefit checks would be mailed in time to be delivered early when the regular payment date falls on a Saturday, Sunday, or legal holiday.

Reduction in spouses' benefits for public pensions.—The bill contains a provision under which social security dependency benefits payable to spouses or surviving spouses would be reduced by the amount

of any public (Federal, State, or local) pension available to the spouse. The reduction would apply only to pension payments based on the spouse's own work in public employment which is not covered under social security. The provision would apply to applications for such dependency benefits in and after the month of enactment of the bill. To assure that persons who have been counting on these benefits for many years and who are now at or near retirement age will not be adversely affected, H.R. 9346 includes a transitional exception under which certain individuals will not have their social security benefits as spouses reduced by the amount of their public pension. The exemption applies to those who are already retired under a public pension program (or who will be eligible for such retirement within the next 5 years) and who also would qualify for spouses benefits under social security under the law as in effect and as administered in January 1977. In the event that the courts find it impermissible to afford this protection to those who anticipated receiving their spouses' benefits prior to March 1977 without providing it also to those would qualify only as a result of a March 1977 court decision, the bill provides that the entire exception would become inoperative so that the reduction in benefits would be applied in all cases.

Disability benefits for the blind.—Blind persons would be eligible for social security disability benefits up to a higher level of earnings than now permitted. Under present regulations, substantial gainful activity (SGA) is measured at \$200 a month (\$2,400 a year) and earnings over this amount would lead to termination of benefits. Under the bill, the SGA amount for the blind would be the same as the retirement test for persons age 65 and over—that is, \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, \$5,500 in 1981, \$6,000 in 1982, and adjusted automatically by increases in earnings levels thereafter. The SGA level for other disabled persons is not changed.

Remarried widows.—Under existing law, a widow may receive a social security benefit on her deceased husband's account equal to 100 percent of the benefit he would have received if he were still alive. If the widow remarries and she is age 60 or over when she remarries, she can retain the widow's benefit but at a 50 percent rate instead of 100 percent. The bill would eliminate that reduction to a 50 percent rate when a widow over age 60 remarries.

Divorced wife's benefits.—Under present law a woman can qualify for a wife's benefit on the account of her former husband (or a surviving divorced wife's benefit on the account of a deceased former husband) but only if the marriage lasted at least 20 years. The bill lowers the required duration of marriage to 10 years.

Treatment of men and women.—The bill directs the Secretary of Health, Education, and Welfare, in consultation with the Justice Department Task Force on Sex Discrimination, to carry out a detailed study of proposals: (1) to eliminate dependency as a requirement for entitlement to social security spouse's benefits, and (2) to bring about the equal treatment of men and women in any and all respects. In conducting this study the Secretary is to take into account the effects

of the changing role of women in today's society including such things as: (1) changes in the nature and extent of women's participation in the labor force, (2) the increasing divorce rate, and (3) the economic value of women's work in the home. A full and complete report is to be submitted by the Secretary to the Congress within 6 months after enactment of the bill.

Annual wage reporting.—Public Law 94-202 enacted in 1976 modified the law to permit employers to report their employees' wages for social security and income tax purposes annually on forms W-2 (beginning with wages paid in 1978) in place of filing quarterly reports as previously required. However, employers were still required to report quarterly wage data on the annual forms W-2 to enable the Social Security Administration to determine whether a worker has enough "quarters of coverage" to be eligible for social security benefits. The bill changes the way in which quarters of coverage are measured so that annual data will be used instead of quarterly data. Thus, employers no longer will have to report quarterly data on forms W-2. Under present law a worker generally receives credit for a quarter of coverage for a calendar quarter in which he receives at least \$50 in wages. Under the bill, a worker is to receive one quarter of coverage (up to a total of four) for each \$250 of earnings in a year, and the \$250 amount will be automatically increased every year to take account of increases in average wages.

National Commission on Social Security.—The bill provides for establishment of a bipartisan National Commission on Social Security, composed of nine members—five appointed by the President and two each by the Speaker of the House and the President of the Senate—to make a broad study of the social security program, including medicare. The study would include the fiscal status of the trust funds, coverage, adequacy of benefits, possible inequities, alternatives to the current programs and to the method of financing the system, integration of the social security system with private retirement programs, and development of a special price index for the elderly. The Commission is to present its full report to the President and to the Congress within 2 years after a majority of the members have been appointed.

Administrative law judges.—Public Law 94-202 established temporary administrative law judge positions to hear social security, medicare, and supplemental security income cases. The bill converts these appointments to permanent status.

Advisory Council on Social Security.—The bill changes the reporting date for the Advisory Council to be appointed in 1977 from January 1, 1979, to October 1, 1979.

Fiscal relief for welfare costs.—The bill provides for a one-time payment to the States of \$187 million as fiscal relief for State and local welfare costs for fiscal year 1978. Half of such funds will be distributed to each State in proportion to its share of total expenditures under the AFDC program for December 1976, and half will be distributed under the general revenue sharing formula. In those States in which local units of government are responsible for meeting part of the costs of the AFDC program the fiscal relief payments would have to be passed through to local governments. States would not be required to pass through an amount in excess of 100 percent of the amount of AFDC costs for which the local government was otherwise responsible.

DISTRIBUTION OF FISCAL RELIEF FOR WELFARE COSTS
UNDER H.R. 9346

State	Amount (thousands)
Total	\$187,000
Alabama	2,180
Alaska	370
Arizona	1,307
Arkansas	1,361
California	25,245
Colorado	1,770
Connecticut	2,469
Delaware	523
District of Columbia	1,205
Florida	3,951
Georgia	2,938
Hawaii	1,138
Idaho	512
Illinois	11,619
Indiana	3,037
Iowa	1,948
Kansas	1,498
Kentucky	2,845
Louisiana	2,996
Maine	980
Maryland	3,269
Massachusetts	1,172
Michigan	10,521
Minnesota	3,221
Mississippi	1,636
Missouri	3,130
Montana	446
Nebraska	822
Nevada	311
New Hampshire	489
New Jersey	6,951
New Mexico	922
New York	26,460
North Carolina	3,503
North Dakota	329

DISTRIBUTION OF FISCAL RELIEF FOR WELFARE COSTS
UNDER H.R. 9346—Continued

State	Amount (thousands)
Ohio.....	7,802
Oklahoma.....	1,727
Oregon.....	2,219
Pennsylvania.....	11,241
Rhode Island.....	905
South Carolina.....	1,666
South Dakota.....	456
Tennessee.....	2,475
Texas.....	5,815
Utah.....	864
Vermont.....	483
Virginia.....	3,174
Washington.....	2,727
West Virginia.....	1,335
Wisconsin.....	4,286
Wyoming.....	218
Guam.....	47
Puerto Rico.....	450
Virgin Islands.....	33

¹ Less than 0.05 percent.

Fiscal incentives for lowering AFDC error rates.—The bill would establish a system of fiscal incentives for States which have low dollar error rates (below 4 percent) as measured by the AFDC quality control findings of incorrect payments.

Under the provision States which have dollar error rates of, or reduce their dollar error rates to, less than 4 percent but not less than 3.5 percent of the total expenditures would receive 10 percent of the Federal share of the money saved, as compared with the Federal costs of 4-percent payment error rate. This percentage would increase proportionately as shown in the following table:

If the error rate is:	<i>Incentive percentage</i> ¹
At least 3.5 percent but less than 4 percent.....	10
At least 3 percent but less than 3.5 percent.....	20
At least 2.5 percent but less than 3 percent.....	30
At least 2 percent but less than 2.5 percent.....	40
Less than 2 percent.....	50

¹ The State will retain this percent of the imputed Federal savings.

The dollar error rate of aid will include the payments to ineligible plus overpayments plus underpayments plus the amount which would have been paid as benefits if the case had not been erroneously termi-

nated or the application erroneously denied. The incentive would be based on Federal savings as compared with a 4-percent rate of excessive payments—that is, erroneous payments for ineligible and overpayments.

Access by AFDC agencies to wage records.—The bill specifically authorizes State AFDC agencies to obtain wage information from the wage records maintained by the Social Security Administration and the wage records maintained by State unemployment compensation agencies for purposes of determining eligibility for (or amount of) AFDC. The Secretary of HEW would establish the necessary safeguards to prevent the improper use of such information. Effective October 1, 1979, States would be required to request and make use of this wage information either from the State unemployment compensation agency (if available there) or from the Social Security Administration.

State welfare demonstration projects.—The bill would authorize certain types of State demonstration projects related to the AFDC program to be implemented if the Secretary did not specifically disapprove the implementation of such projects within sixty days after the State applies to have the projects approved. In other words, a State could proceed with such projects either when the Secretary approved them, or sixty days after submitting them to the Secretary if no decision had been reached by HEW within that period.

Under this authority, States would be permitted to conduct not more than three demonstration projects but not more than one on a statewide basis. Projects involving public service employment would have to pay prevailing wages and meet reasonable standards related to health, safety and other conditions, could not displace employed workers, would have to be reasonable for the individuals participating, and would have to provide appropriate workmen's compensation protection. Participation in any project by any AFDC recipient would have to be on a voluntary basis.

States would be permitted to waive ordinary statutory rules requiring statewide uniformity, administration by a single agency, and regarding participation in the work incentive program and the disregard of certain amounts of earned income. (Not more than half of all earnings could be disregarded under the waiver authority, however.)

AFDC matching for these demonstration projects would be limited to the amount the State would have received through AFDC if it had not implemented the demonstration project. In addition, the State's general revenue sharing funds could be used to cover the costs of salaries for participants in public service employment which are not covered by AFDC matching.

Once implemented, demonstration projects could continue for up to 2 years unless the Secretary took action to disapprove a State waiver of statutory rules before the end of the 2-year period. The provision would not apply after September 30, 1980.

The bill provides that when a State submits an application it would be required to make a public announcement that such application has been made, make copies of the application available and receive public comments for at least 30 days. The Secretary would also be required

to publish a summary of the proposed demonstration project and make copies of the application available.

The Secretary of HEW could deny applications by a State under this provision any time after receipt of the application, but could not approve an application until 30 days after it has been submitted.

Erroneous State supplementary payments.—H.R. 9346 provides authorization and direction for the Secretary of Health, Education, and Welfare to reimburse a State for erroneous State supplementary payments administered by them and paid during 1974 to the extent that an HEW audit (reviewed and concurred in by the Inspector General of the Department) determines is appropriate on the basis that the incorrect payments for the aged, blind, and disabled resulted from a State's good faith reliance upon erroneous or incomplete information furnished to the States by the Department or from a State's good faith reliance on incorrect supplemental security income payments made by the Department.

Wheelchairs.—The bill would permit payment for power-operated wheelchairs under medicare where the vehicle is determined to be medically necessary and safe.

Federal Election Campaign Act amendment.—The bill provides that a contribution to a tax-exempt organization selected by the payor from a list of five or more organizations named by the Government officer or employee would not be treated as an honorarium. It also provides that amounts returned to a payor before the end of the calendar year would not be treated as honoraria. The bill further provides that honoraria would be treated as accepted in the year of receipt.

SOCIAL SECURITY FINANCING TABLES

NOTE.—The following tables are based on information furnished by
the Social Security Administration

CHANGE IN ACTUARIAL BALANCE OF THE OASDI PROGRAM
OVER THE LONG-RANGE PERIOD (1977-2051) AS A RESULT
OF CHANGES INCLUDED IN H.R. 9346

[Percentage of payroll costs; preliminary estimates]

Description of item	OASI	DI	Total
Cost of social security system under present law.....	15.51	3.68	19.19
Balance under present law.....	-6.06	-2.14	-8.20
Changes of the bill:			
Decoupling.....	9.63	2.32	11.95
New (wage-indexed) benefit formula.....	-5.91	-1.24	-7.16
Freeze minimum at 1978 level (including change in special minimum).....	.07	.02	.08
Reduction in spouses' benefits for public pension.....	.04		.04
Retirement test.....	-.11		-.11
Delayed retirement credit (including DRC for widows).....	-.06		-.06
Marriage/remarriage effect after age 60.....	-.01		-.01
No retroactive benefit for actuarially reduced benefits.....	.01		.01
Actuarial reduction applied to general benefit increase.....	.24		.24
Miscellaneous ¹			
Annual reporting of earnings....	-.01		-.01
Total net effect of benefit changes.....	3.88	1.09	4.97
Change in wage base.....	.45	.08	.54
Self-employed tax rate to 1½ times employee tax rate.....	.08	.02	.10
Tax rate schedule.....	.57	.57	1.14
Total net effect of financing changes (including wage base).....	1.11	.67	1.78
Total net cost effect.....	4.99	1.75	6.74
Balance under bill.....	-1.07	-.38	-1.45

¹ Includes change in SGA definition for blind, employer tax on tips deemed to be wages, provision on limited partnership coverage, tax relief for affiliated corporations, reduction of 20 year marriage requirement to 10 years for certain beneficiaries.

Note: Based on alternative II of the 1977 trustees report.

ESTIMATED AMOUNT OF CHANGES IN OASDI BENEFIT PAYMENTS UNDER H.R. 9346, CALENDAR YEARS 1978-83
(In millions)

	Calendar years--					
	1978	1979	1980	1981	1982	1983
Total amount of change in benefit payments.....	-\$440	-\$492	-\$844	-\$1,446	-\$1,696	-\$2,577
Benefit structure—net total.....		-70	-351	-803	-1,473	-2,377
Decoupling and wage-indexing formula (net).....		-94	-423	-895	-1,563	-2,466
5-yr transition guarantee.....		24	79	118	150	180
Frozen minimum benefit.....			-7	-26	-60	-106
3-percent delayed retirement credit.....						15
Changes in retirement test—net total.....	54	266	359	404	895	981
Increases in exempt amount ¹	267	491	585	640	709	762
Reduction in exempt age from 72 to 70 in 1982.....					403	441
Elimination of monthly measure.....	-213	-225	-226	-236	-217	-222

Establish the retirement test exempt amount for beneficiaries aged 65 and over as a measure of substantial gainful activity for blind disabled workers.....	1	1	1	2	2
Elimination of retroactive payments of actuarially reduced benefits.....	-339	-536	-550	-559	-569
Limitation on increases in actuarially reduced benefits.....	-90	-280	-500	-751	-1,157
Increase in benefits of surviving spouses, resulting from deceased workers' delayed retirement credits.....	3	4	5	7	13
Delayed retirement credits for workers with actuarially reduced benefits.....		14	22	24	30
Reduction in benefits of spouses receiving public retirement pensions.....	-68	-106	-108	-110	-116
Eliminate reduction in widowed spouses benefits due to remarriage after age 60.....		130	155	166	178
Reduction in duration of marriage required for divorced spouses benefits from 20 yr to 10 yr.....		67	80	86	92
Increase in special minimum benefits.....		12	14	14	15
Changes in annual wage reporting provisions.....	(²)	1	4	9	18
Authorization to enter into totalization agreements ²	(³)	5	4	4	5
Increases in contribution and benefit base.....		(³)	21	62	161
				161	281

¹ Exempt amount increased for beneficiaries aged 65 and over to \$4,000 in 1978; \$4,500 in 1979; \$5,000 in 1980; \$5,500 in 1981; and \$6,000 in 1982.

² The estimates represent additional OASDI benefit payments that would result from implementation of totalization agreements already signed with Italy and West Germany. No agreement can become effective if either House

of Congress disapproves the agreement within 90 days after it is submitted to Congress.

³ Less than \$500,000.

Note.—A positive figure represents additional benefit payments, and a negative figure represents a reduction in benefit payments.

ADDITIONAL CONTRIBUTION INCOME RESULTING FROM H.R.
9346, CALENDAR YEARS 1978-83

[In billions]

Calendar year	Increase in contri- bution and benefit base	Realloca- tion of tax rates between OASDI and HI	Increase in OASDI self-em- ployment tax rates to 1½ times employee rate	Increase in tax rates	Total ¹
OASDI:					
1978.....		1.6			1.7
1979.....	4.0	1.1		1.5	6.6
1980.....	6.3	1.1		1.8	9.2
1981.....	8.0	1.2	0.2	8.1	17.6
1982.....	8.8	1.3	.8	10.3	21.3
1983.....	9.4	1.4	.9	11.1	22.9
HI:					
1978.....		-1.6			-1.6
1979.....	.9	-1.1			-.2
1980.....	1.4	-1.1			.2
1981.....	2.1	-1.2			.9
1982.....	2.4	-1.3			1.0
1983.....	2.5	-1.4			1.1
OASDHI:					
1978.....					(²)
1979.....	4.9			1.5	6.4
1980.....	7.6			1.8	9.4
1981.....	10.1		.2	8.1	18.4
1982.....	11.2		.8	10.3	22.4
1983.....	11.9		.9	11.1	23.9

¹ Includes relatively small amounts of additional taxes payable by employers on employees' income from tips and reduction in taxes due to the provision on totalization agreements.

² Amount is less than \$50,000,000.

ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS
COMBINED, UNDER THE PROGRAM AS MODIFIED BY H.R.
9346, CALENDAR YEARS 1977-87

[Dollar amounts in billions]

Calendar year	Income	Outgo	Net increase in funds
1977.....	\$82.1	\$87.6	-\$5.5
1978.....	92.4	97.2	-4.8
1979.....	106.5	106.9	-.4
1980.....	119.1	117.1	2.0
1981.....	137.1	127.4	9.6
1982.....	150.2	138.3	11.9
1983.....	161.3	149.2	12.1
1984.....	172.9	161.2	11.7
1985.....	194.2	174.0	20.1
1986.....	209.0	187.6	21.4
1987.....	223.7	202.0	21.7

	Funds at end of year	Funds at begin- ning of year as a percent- age of outgo during year	Funds at end of year as a percent- age of outgo during year
1977.....	\$35.6	47	41
1978.....	30.8	37	32
1979.....	30.4	29	28
1980.....	32.4	26	28
1981.....	42.0	25	33
1982.....	53.9	30	39
1983.....	66.0	36	44
1984.....	77.7	41	48
1985.....	97.9	45	56
1986.....	119.3	52	64
1987.....	141.0	59	70

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

ESTIMATED OPERATIONS OF THE OASI TRUST FUND UNDER
THE PROGRAM AS MODIFIED BY H.R. 9346, CALENDAR YEARS
1977-87

[Dollar amounts in billions]

Calendar year	Income	Outgo	Net increase in fund
1977	\$72.5	\$75.6	-\$3.1
1978	78.6	83.6	-5.0
1979	90.8	91.6	-.8
1980	101.5	100.0	1.5
1981	116.0	108.4	7.5
1982	127.2	117.4	9.7
1983	136.6	126.3	10.3
1984	146.4	136.0	10.5
1985	162.0	146.4	15.7
1986	174.1	157.3	16.8
1987	186.3	168.9	17.4
		Fund at beginning of year as a percentage of outgo during year	Fund at end of year as a percentage of outgo during year
	Fund at end of year		
1977	\$32.3	47	43
1978	27.3	39	33
1979	26.5	30	29
1980	28.0	26	28
1981	35.6	26	33
1982	45.3	30	39
1983	55.6	36	44
1984	66.1	41	49
1985	81.7	45	56
1986	98.5	52	63
1987	115.9	58	69

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

ESTIMATED OPERATIONS OF THE DI TRUST FUND UNDER THE
PROGRAM AS MODIFIED BY H.R. 9346, CALENDAR YEARS
1977-87

[Dollar amounts in billions]

Calendar year	Income	Outgo	Net increase in fund
1977.....	\$9.6	\$12.0	-\$2.4
1978.....	13.8	13.7	.2
1979.....	15.7	15.3	.4
1980.....	17.6	17.1	.5
1981.....	21.1	19.0	2.1
1982.....	23.0	20.9	2.1
1983.....	24.7	22.9	1.8
1984.....	26.5	25.2	1.3
1985.....	32.1	27.7	4.5
1986.....	34.9	30.3	4.6
1987.....	37.4	33.1	4.3

	Fund at end of year	Fund at beginning of year as a percentage of outgo during year	Fund at end of year as a percentage of outgo during year
1977.....	\$3.3	48	27
1978.....	3.5	24	25
1979.....	3.9	23	26
1980.....	4.4	23	25
1981.....	6.5	23	34
1982.....	8.6	31	41
1983.....	10.4	38	45
1984.....	11.6	41	46
1985.....	16.1	42	58
1986.....	20.8	53	69
1987.....	25.1	63	76

Note: The above estimates are based on the Intermediate set of assumptions shown in the 1977 Trustees Report.

ESTIMATED OPERATIONS OF THE HI TRUST FUND UNDER
THE PROGRAM AS MODIFIED BY H.R. 9346, CALENDAR YEARS
1977-87

[Dollar amounts in billions]

Calendar year	Income	Outgo	Net Increase In fund
1977.....	\$16.1	\$16.2	-\$0.1
1978.....	19.2	19.0	.2
1979.....	23.1	22.2	.9
1980.....	25.7	25.7	(¹)
1981.....	34.0	29.7	4.3
1982.....	37.1	33.9	3.3
1983.....	39.7	38.5	1.2
1984.....	42.3	43.7	-1.4
1985.....	46.3	49.1	-2.8
1986.....	52.4	54.9	-2.5
1987.....	55.8	61.2	-5.4
		Fund at begin- ning of year as a percent- age of outgo during year	Funds at end of year as a percent- age of outgo during year
	Fund at end of year		
1977.....	\$10.5	66	65
1978.....	10.7	55	56
1979.....	11.6	48	52
1980.....	11.5	45	45
1981.....	15.9	39	53
1982.....	19.1	47	56
1983.....	20.3	50	53
1984.....	19.0	47	43
1985.....	16.1	39	33
1986.....	13.6	29	25
1987.....	8.2	22	13

¹ Outgo exceeds income by less than \$50 million.

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

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95th Congress }
2d Session }

COMMITTEE PRINT

{ WMCP: 95-68

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Actuarial Cost Estimates for the Old-Age, Survivors,
Disability, Hospital, and Supplementary Medical
Insurance Systems, as Modified by Public Law 95-216



MARCH 3, 1978

Prepared for the use of the Committee on Ways and Means by the Office
of the Actuary, Social Security Administration

U.S. GOVERNMENT PRINTING OFFICE

22-309

WASHINGTON : 1978

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ACTUARIAL COST ESTIMATES FOR THE OLD-AGE, SURVIVORS, DISABILITY, HOSPITAL, AND SUPPLEMENTARY MEDICAL INSURANCE SYSTEMS UNDER THE SOCIAL SECURITY ACT AS AMENDED THROUGH PUBLIC LAW 95-216

I. INTRODUCTION

This report presents the actuarial cost estimates of the old-age and survivors insurance (OASI) system, the disability insurance (DI) system, the hospital insurance (HI) system, and the supplementary medical insurance (SMI) system, based on the Social Security Act as amended by the Congress. H.R. 9346 was passed by the House of Representatives on October 27, and an amended version was passed by the Senate on November 4. The conference committee agreed on the final provisions of the bill on December 14, and the House and Senate accepted the conference agreement on December 15. The President approved the bill on December 20, 1977; it has been designated Public Law 95-216. This report has been prepared by the Office of the Actuary, Social Security Administration for the use of the Social Security Subcommittee of the House Committee on Ways and Means.

1. Categorization of estimates

In general, the estimates in this report are categorized as short-, medium-, and long-range estimates. Estimates for the next 10 years are considered to be short range. Estimates for the next 25 years are considered to be medium range for the old-age, survivors, and disability insurance (OASDI) system and long range for the HI system. Estimates for the next 75 years are prepared only for the OASDI system and are considered to be long range for that system.

One exception to the above categorization of estimates occurs with respect to the SMI system which is financed on a year-by-year basis.

2. Form of the estimates

Short-range estimates are presented in terms of current dollar amounts. For example, such items as income, expenditures, and trust fund balances are all shown in that form over the first 10 years.

Medium- and long-range estimates, however, are shown as percentages of taxable payroll (rather than in dollar amounts). The taxable payroll consists of the total earnings which are subject to social security taxes, adjusted to reflect the lower contribution rates on self-employment income, tips, and multiple-employer "excess wages." This adjustment is made so that the expenditures, when expressed as a percent of taxable payroll—that is, the expenditures divided by the taxable payroll and expressed as a percentage—will be comparable to the combined employer-employee tax rate in the law.

3. Assumptions underlying the estimates

In general, the estimates presented in this report are based on the intermediate set of assumptions (alternative II) described in the 1977

Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds and in the 1977 Annual Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund. In addition, some estimates included in this report are based on the sets of assumptions designated as alternative I and alternative III in the trustees reports mentioned above. Table 1 summarizes, by alternative, the assumed values of selected economic and demographic factors.

TABLE 1.—*Values of selected economic and demographic factors included in alternatives I, II, and III, by calendar year*

Calendar year	Percentage increase in average annual—			Average annual unemployment rate	Total fertility rate ²
	Wages in covered employment	Consumer Price Index (CPI)	Real wages ¹		
Alternative I:					
1977	8.4	6.0	2.4	7.1	1,709.9
1978	8.2	5.3	2.9	6.3	1,685.9
1979	7.9	4.6	3.3	5.6	1,662.0
1980	6.6	4.1	2.5	5.0	1,670.2
1981	5.8	3.4	2.4	4.5	1,710.5
1982	5.3	3.0	2.3	4.5	1,750.9
1983	5.25	3.0	2.25	4.5	1,791.2
1984	5.25	3.0	2.25	4.5	1,832.0
1985	5.25	3.0	2.25	4.5	1,874.0
1990	5.25	3.0	2.25	4.5	2,097.0
1995	5.25	3.0	2.25	4.5	2,250.4
2000	5.25	3.0	2.25	4.5	2,297.2
2005 and later	5.25	3.0	2.25	4.5	2,300.0
Alternative II:					
1977	8.4	6.0	2.4	7.1	1,709.9
1978	8.1	5.4	2.7	6.3	1,685.9
1979	7.8	5.3	2.5	5.7	1,662.0
1980	7.1	4.7	2.4	5.2	1,662.9
1981	6.4	4.1	2.3	5.0	1,688.8
1982	6.0	4.0	2.0	5.0	1,714.7
1983	5.75	4.0	1.75	5.0	1,740.5
1984	5.75	4.0	1.75	5.0	1,766.8
1985	5.75	4.0	1.75	5.0	1,794.4
1990	5.75	4.0	1.75	5.0	1,953.0
1995	5.75	4.0	1.75	5.0	2,068.0
2000	5.75	4.0	1.75	5.0	2,100.6
2005 and later	5.75	4.0	1.75	5.0	2,100.0
Alternative III:					
1977	8.4	6.0	2.4	7.1	1,709.9
1978	7.9	5.7	2.2	6.4	1,685.9
1979	8.1	7.6	.5	6.6	1,662.0
1980	8.2	5.9	2.3	6.6	1,648.4
1981	7.0	5.1	1.9	6.3	1,645.2
1982	6.5	5.0	1.5	6.0	1,642.1
1983	6.25	5.0	1.25	5.6	1,638.9
1984	6.25	5.0	1.25	5.5	1,636.2
1985	6.25	5.0	1.25	5.5	1,635.0
1990	6.25	5.0	1.25	5.5	1,665.2
1995	6.25	5.0	1.25	5.5	1,703.2
2000	6.25	5.0	1.25	5.5	1,707.3
2005 and later	6.25	5.0	1.25	5.5	1,700.0

¹ Expressed as the difference between percentage increases in average annual wages and average annual CPI.

² Average number of children born per 1,000 women in their lifetime.

Table 2 summarizes the OASDI general benefit increases, projected to become effective automatically under each alternative.

TABLE 2.—*General benefit increases projected to become effective automatically under alternatives I, II, and III, by calendar year*

Calendar year	General benefit increase under alternative—		
	I	II	III
1977	5.9	5.9	5.9
1978	5.5	5.5	5.5
1979	4.8	5.2	6.9
1980	4.5	5.0	6.8
1981	3.6	4.2	5.2
1982	3.1	4.0	5.0
1983 and later	3.0	4.0	5.0

NOTE.—Prior to the amendments in Public Law 95-216 the general benefit increases applied both to persons eligible for benefits at the time of benefit increase and to persons becoming eligible for benefits thereafter. Under Public Law 95-216, after 1978 they do not apply to persons who become eligible for benefits after the calendar year in which the benefit increase becomes effective.

4. Financial soundness

In the short-range the financial soundness of each component of the OASDI system can be assessed by considering the size of the trust fund balance (in absolute terms and as a ratio to the annual expenditures) and whether it is increasing or decreasing. In the long-range the traditional measure of financial soundness has been the actuarial balance of the system. This is defined as the difference between the average tax rate scheduled in the law and the average future annual expenditures expressed as percent of taxable payroll. If the difference is less than 5 percent of the average expenditures, the system is said to be in close actuarial balance.

After the following summary of the various provisions in Public Law 95-216 this report presents short-, medium-, and long-range estimates projected for the OASDI system as it was before and after the amendments.

II. SUMMARY OF VARIOUS PROVISIONS OF PUBLIC LAW 95-216

From an actuarial cost standpoint, the important provisions of Public Law 95-216 are as follows:

1. Wage-indexed decoupling with an eligibility indexing point and with a 5-percent benefit reduction from the 1979 level

Benefits for persons first eligible after 1978 will be computed using a formula based on the average indexed monthly earnings (AIME). The formula for primary insurance amount (PIA) shown below, which was adopted for 1979, represents a reduction in the average benefit of 5 percent below that which would have been payable at first eligibility under prior law.

90 percent of the first \$180 of AIME, plus
 32 percent of AIME over \$180 and through \$1,085, plus
 15 percent of AIME over \$1,085.

The bendpoints of the formula (the amounts \$180 and \$1,085) will be adjusted annually after 1979 according to changes in the average

earnings. The AIME will be based on the same computation period which has been used for computing the average monthly wage (AMW) under the law prior to the amendments, but the earnings records of all workers will now be indexed (according to increases in average earnings) to the level prevailing in the second year before the year of first eligibility or death.

An individual who first becomes eligible for retirement benefits (attains age 62) during the 5-year period 1979-83 is guaranteed no less than the benefit payable according to the benefit table in effect in December 1978.

Benefits will continue to be increased every June according to increases in the first-quarter average Consumer Price Index (provided that the increase is at least 3 percent). However, these benefit increases will be credited only to those who attain age 62, die or have an onset of disability in the year of the benefit increase or in a prior year.

The family maximum benefit will be computed from the PIA and is based on a four-step formula. For 1979 eligibility the formula will be

150 percent of the first \$230 of PIA, plus
272 percent of PIA over \$230 and through \$332, plus
134 percent of PIA over \$332 and through \$433, plus
175 percent of PIA over \$433.

The three bendpoints in this formula (\$230, \$332, and \$433) will be adjusted annually after 1979 according to changes in the average earnings.

2. Frozen minimum benefit at the December 1978 level and changes in the special minimum benefit

The regular minimum primary insurance amount for future beneficiaries will be frozen at the level that will be in effect in December 1978 (estimated to be \$121). In general this frozen minimum will be subject to the annual CPI benefit adjustments after entitlement. For 1979, the special minimum primary insurance amount is changed from \$9 for each year of coverage in excess of 10 years and up to a maximum of 30 years to \$11.50 for each such years. For subsequent years, the \$11.50 will be adjusted according to increases in the Consumer Price Index.

3. Government pension offset

The social security benefit otherwise payable to a spouse or a widowed spouse on the basis of an application filed after November 1977, will be offset by the amount of any Federal, State, or local government pension to which the spouse or widowed spouse is entitled by virtue of his or her own earnings in noncovered employment. This provision will not apply to women or dependent men who are presently eligible for a Federal, State, or local government pension based on noncovered employment or who become eligible for such a pension before December 1982.

4. Changes in the retirement test

For beneficiaries under age 65, the procedure for determining the retirement test exempt amount under the law prior to the amendments will be retained. For beneficiaries aged 65 and over the exempt amount is \$4,000 in 1978 and will increase by \$500 each year up to \$6,000 in 1982. After 1982, the retirement test is eliminated for beneficiaries aged 70 and over while for those aged 65 to 69 the exempt

amount will increase automatically according to changes in average earnings. In addition, after 1977 the monthly measure (that is, the maximum amount that a beneficiary may earn per month without having his monthly benefit reduced) is eliminated, except in the first year in which the beneficiary is both entitled to benefits and earns less than the monthly exempt amount in at least one month.

5. Increase in delayed-retirement credit for workers and extension of delayed-retirement credit to widows and widowers

For workers attaining age 62 after 1978, the delayed-retirement credit is increased to $\frac{1}{4}$ percent for every month after attainment of age 65 for which the worker does not receive a benefit (regardless of whether the worker had received reduced benefits for months before age 65). The increment will also be applicable to those who are receiving actuarially reduced benefits. In addition, all percentage increases in worker's benefits due to the delayed-retirement credit are extended to surviving spouses benefits.

6. Remarriage of widowed spouses

Beginning with 1979 the remarriage after age 60 of surviving spouses will not reduce or terminate their benefits.

7. Elimination of retroactive payments of actuarially reduced benefits

Benefits for months before the month of filing of an application will not be paid if this would result in a permanent reduction of future benefits, except where disability-related benefits or unreduced dependents benefits are involved.

8. Change in the method of increasing actuarially reduced benefits

Future benefit increases will be subject to the same percent reduction as applicable to the individual's benefits before the increase.

9. Changes in SGA for the blind

A blind disability beneficiary will not be considered to have engaged in substantial gainful activity on the basis of total earnings which are less than the monthly exempt amount in the retirement test for workers aged 65 and over.

10. Employer tax liability on tips deemed to be wages

Employers will be required to pay social security taxes on tips deemed to be wages under the Federal minimum wage law.

11. Correction of coverage regarding limited partnerships

The income from a partnership which is received by a limited partner who performs no service for the partnership will be excluded from social security coverage.

12. Tax relief for affiliated corporations

A group of affiliated corporations concurrently employing an individual and paying such individual through one of the corporations acting as a common paymaster will be considered to be a single employer for purposes of determining employer social security tax liability with respect to that individual.

13. 10-Year marriage requirement for divorced beneficiaries

The duration-of-marriage requirement for entitlement to benefits as an aged divorced wife or surviving divorced wife will be reduced from 20 years to 10 years, beginning with benefits payable after 1978.

14. Annual report of earnings

Since employers will be filing earnings reports only once a year beginning with 1978, the definition of a "quarter of coverage" will be changed to be a full unit of \$250 of earnings in 1978 (subject to a maximum of four units in a year). The unit of earnings of \$250 in 1978 will be revised automatically in the future according to changes in average earnings.

15. Changes in the wage base

The amount of the contribution and benefit base has been increased as follows:

Year	Prior to amendments	After amendments
1978-----	\$17,700	\$17,700
1979-----	¹ 18,900	22,900
1980-----	¹ 20,400	25,900
1981-----	¹ 21,900	29,700

¹ Projected under the automatic adjustment provisions.

For 1982 and later, the contribution and benefit base will continue to be indexed according to changes in average earnings in covered employment.

16. Changes in the tax rate schedule

A new OASDHI tax-rate schedule for employees and employers and for the self-employed is included in the 1977 legislation. Also additional allocation to the DI program is included and beginning in 1981 the self-employed tax rate for OASDI will be equal to approximately 150 percent of the employee rate. The tax rate schedules for employees, and employers each and for the self-employed are modified as follows:

[In percent]

Year	Prior to amendments			After amendments		
	OASDI	HI	Total	OASDI	HI	Total
Employer and employee, each:						
1978-----	4.95	1.10	6.05	5.05	1.00	6.05
1979-80-----	4.95	1.10	6.05	5.08	1.05	6.13
1981-----	4.95	1.35	6.30	5.35	1.30	6.65
1982-84-----	4.95	1.35	6.30	5.40	1.30	6.70
1985-----	4.95	1.35	6.30	5.70	1.35	7.05
1986-89-----	4.95	1.50	6.45	5.70	1.45	7.15
1990-2010-----	4.95	1.50	6.45	6.20	1.45	7.65
2011 and later-----	5.95	1.50	7.45	6.20	1.45	7.65
Self-employed:						
1978-----	7.00	1.10	8.10	7.10	1.00	8.10
1979-80-----	7.00	1.10	8.10	7.05	1.05	8.10
1981-----	7.00	1.35	8.35	8.00	1.30	9.30
1982-84-----	7.00	1.35	8.35	8.05	1.30	9.35
1985-----	7.00	1.35	8.35	8.55	1.35	9.90
1986-89-----	7.00	1.50	8.50	8.55	1.45	10.00
1990 and later-----	7.00	1.50	8.50	9.30	1.45	10.75

The new allocation of taxes between the OASI and DI trust funds will be as follows:

Year	Employer and employee, each		Self-employed	
	OASI	DI	OASI	DI
1978-----	4. 275	. 775	6. 0100	1. 0900
1979-80-----	4. 330	. 750	6. 0100	1. 0400
1981-----	4. 525	. 825	6. 7625	1. 2375
1982-84-----	4. 575	. 825	6. 8125	1. 2375
1985-----	4. 750	. 950	7. 1250	1. 4250
1986-89-----	4. 750	. 950	7. 1250	1. 4250
1990 and later-----	5. 100	1. 100	7. 6500	1. 6500

III. SHORT-RANGE COST ESTIMATES FOR THE OASDI SYSTEM

The estimates in this section cover the first 10 years of projected operations of the OASDI system. All estimates are in terms of absolute current dollars.

1. OASDI income and expenditures during the next 10 years

Table 3 shows the progress of the old-age and survivors insurance and disability insurance trust funds combined under prior law and under the program as amended by Public Law 95-216. It is estimated that under the law as amended the combined trust funds will continue to decline in 1978 and 1979. However, because of the ad hoc increase in the contribution and benefit base in 1979, the increase in contribution rates in 1979, and the reallocation of contribution rates from HI to OASDI in 1978, the declines in the trust funds in 1978 and 1979 will not be as large as they would have been under prior law. Because of the ad hoc increase in the base in 1980, and the higher OASDI tax rate provided, the trust funds will begin to increase in 1980. The higher increases that begin in 1981 result largely from the increase in contribution rates in 1981 and the third, and final, ad hoc increase in the base in 1981. The increases in the trust funds become larger in 1985 because of the increase in contribution rates scheduled for 1985. The assets of the combined trust funds at the beginning of 1987, as a percentage of outgo in 1987, will reach an estimated 59 percent.

2. OASI income and expenditures during the next 10 years

Table 4 shows the progress of the old-age and survivors insurance trust fund under prior law and under the program as amended by Public Law 95-216. As in the case of the combined trust funds, under the law as amended, the OASI trust fund continues to decline in 1978 and 1979, but increases in each year after 1979 through 1987. The assets of the trust fund at the beginning of 1987, as a percentage of outgo in 1987, will be an estimated 58 percent.

3. DI income and expenditures during the next 10 years

Table 5 shows the progress of the disability insurance trust fund under prior law and under the program as amended by Public Law 95-216. Because of the reallocation of contribution rates to the DI trust fund in 1978, the trust fund is expected to begin increasing in 1978. The rate of increase will become larger in 1981 and in 1985 because of increases in the contribution rates allocated to the DI

trust fund in those years. The assets of the trust fund at the beginning of 1987, as a percentage of outgo in 1987, will be an estimated 63 percent.

4. *Changes in OASDI benefit payments in calendar years 1978-83.*

The changes in benefit payments under the OASDI system in calendar years 1978-83, as a result of the provisions in Public Law 95-216 are shown in table 6, by provision.

TABLE 3.—Operations of the old-age and survivors insurance and the disability insurance trust funds, combined, under the Social Security Act prior to amendments in Public Law 95-216, and as amended, calendar years 1972-87

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in funds	End of year	Funds at—	
					Beginning of year as a percentage of disbursements during year	End of year as a percentage of disbursements during year
1972	\$45.6	\$43.3	\$2.3	\$42.8	93	99
1973	54.8	53.1	1.6	44.4	80	84
1974	62.1	60.6	1.5	45.9	73	76
1975	67.6	69.2	-1.5	44.3	66	64
1976	75.0	78.2	-3.2	41.1	57	53
Under the act prior to amendments in Public Law 95-216						
Estimated future experience:						
1977	\$82.1	\$87.6	-\$5.5	\$35.6	47	41
1978	90.7	97.6	-7.0	28.6	36	29
1979	99.6	107.4	-7.8	20.8	27	19
1980	108.9	117.9	-9.0	11.8	18	10
1981	117.4	128.9	-11.5	3	9	(1)
1982	125.2	140.1	-14.9	-14.6	(1)	(2)
1983	132.9	152.0	-19.2	-33.8	(2)	(2)
1984	140.7	165.1	-24.4	-58.2	(2)	(2)
1985	148.4	179.2	-30.8	-89.0	(2)	(2)
1986	156.2	194.4	-38.1	-127.2	(2)	(2)
1987	164.4	210.5	-46.1	-173.3	(2)	(2)
Under the act as amended by Public Law 95-216						
1977	\$82.1	\$87.6	-\$5.5	\$35.6	47	41
1978	92.4	97.2	-4.8	30.8	37	32
1979	106.5	106.9	-.4	30.4	29	28
1980	119.1	117.1	2.0	32.4	26	28
1981	137.1	127.4	9.6	42.0	25	33
1982	150.2	138.3	11.9	53.9	30	39
1983	161.3	149.2	12.1	66.0	36	44
1984	172.9	161.2	11.7	77.7	41	48
1985	194.2	174.0	20.1	97.9	45	56
1986	209.0	187.6	21.4	119.3	52	64
1987	223.7	202.0	21.7	141.0	59	70

¹ Less than 0.5 percent.

² The combined funds are exhausted in 1982.

TABLE 4.—Operations of the old-age and survivors insurance trust fund, combined, under the Social Security Act prior to amendments in Public Law 95-216, and as amended, calendar years 1972-87

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in funds	Funds at—		
				End of year	Beginning of year as a percentage of disbursements during year	End of year as a percentage of disbursements during year
1972	\$40.1	\$38.5	\$1.5	\$35.3	88	92
1973	48.3	47.2	1.2	36.5	75	77
1974	54.7	53.4	1.3	37.8	68	71
1975	59.6	60.4	-.8	37.0	63	61
1976	66.3	67.9	-1.6	35.4	54	52
Under the act prior to amendments in Public Law 95-216						
Estimated future experience:						
1977	\$72.5	\$75.6	-\$3.1	\$32.3	47	43
1978	79.8	84.0	-4.2	28.1	38	33
1979	87.7	92.0	-4.3	23.8	31	26
1980	96.1	100.6	-4.4	19.4	24	19
1981	102.8	109.4	-6.7	12.7	18	12
1982	109.7	118.4	-8.7	4.1	11	3
1983	116.7	127.9	-11.2	-7.2	3	(¹)
1984	123.9	138.3	-14.4	-21.5	(¹)	(¹)
1985	131.1	149.5	-18.4	-39.9	(¹)	(¹)
1986	136.9	161.4	-24.5	-64.4	(¹)	(¹)
1987	144.4	174.1	-29.7	-94.2	(¹)	(¹)
Under the act as amended by Public Law 95-216						
1977	\$72.5	\$75.6	-\$3.1	\$32.3	47	43
1978	78.6	83.6	-5.0	27.3	39	33
1979	90.8	91.6	-.8	26.5	30	29
1980	101.5	100.0	1.5	28.0	26	28
1981	116.0	108.4	7.5	35.6	26	33
1982	127.2	117.4	9.7	45.3	30	39
1983	136.6	126.3	10.3	55.6	36	44
1984	146.4	136.0	10.5	66.1	41	49
1985	162.0	146.4	15.7	81.7	45	56
1986	174.1	157.3	16.8	98.5	52	63
1987	186.3	168.9	17.4	115.9	58	69

¹ Fund exhausted in 1983.

TABLE 5.—Operations of the disability insurance trust fund, under the Social Security Act prior to amendments in Public Law 95-216, and as amended, calendar years 1972-87

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in funds	Funds at—		
				End of year	Beginning of year as a percentage of disbursements during year	End of year as a percentage of disbursements during year
1972	\$5.6	\$4.8	\$0.8	\$7.5	140	157
1973	6.4	6.0	.5	7.9	125	133
1974	7.4	7.2	.2	8.1	110	113
1975	8.0	8.8	-.8	7.4	92	84
1976	8.8	10.4	-1.6	5.7	71	55
Under the act prior to amendments in Public Law 95-216						
Estimated future experience:						
1977	\$9.6	\$12.0	-\$2.4	\$3.3	48	27
1978	10.9	13.6	-2.8	.5	24	4
1979	11.8	15.3	-3.5	-3.0	3	(1)
1980	12.8	17.4	-4.6	-7.6	(1)	(1)
1981	14.6	19.5	-4.9	-12.5	(1)	(1)
1982	15.5	21.7	-6.2	-18.7	(1)	(1)
1983	16.2	24.1	-8.0	-26.6	(1)	(1)
1984	16.8	26.8	-10.0	-36.6	(1)	(1)
1985	17.3	29.8	-12.4	-49.1	(1)	(1)
1986	19.3	33.0	-13.6	-62.7	(1)	(1)
1987	20.0	36.4	-16.4	-79.1	(1)	(1)
Under the act as amended by Public Law 95-216						
1977	\$9.6	\$12.0	-\$2.4	\$3.3	48	27
1978	13.8	13.7	.2	3.5	24	25
1979	15.7	15.3	.4	3.9	23	26
1980	17.6	17.1	.5	4.4	23	25
1981	21.1	19.0	2.1	6.5	23	34
1982	23.0	20.9	2.1	8.6	31	41
1983	24.7	22.9	1.8	10.4	38	45
1984	26.5	25.2	1.3	11.6	41	46
1985	32.1	27.7	4.5	16.1	42	58
1986	34.9	30.3	4.6	20.8	53	69
1987	37.4	33.1	4.3	25.1	63	76

¹ Fund exhausted in 1979.

TABLE 6.—Estimated amount of changes in OASDI benefit payments that will result from the provisions in Public Law 95-216, calendar years 1978-83

[In millions of dollars]

	Calendar year—					
	1978	1979	1980	1981	1982	1983
Total amount of change in benefit payments.....	-440	-492	-844	-1,446	-1,696	-2,577
Decoupling (net total).....		-70	-351	-803	-1,473	-2,377
Wage-indexing formula.....		-94	-423	-895	-1,563	-2,466
5-year transition guarantee.....		24	79	118	150	180
Frozen minimum benefit.....			-7	-26	-60	-106
3-percent delayed retirement credit.....						15
Changes in retirement test (net total).....	54	266	359	404	895	981
Increases in exempt amount ¹	267	491	585	640	709	762
Reduction in exempt age from 72 to 70 in 1982.....					403	441
Elimination of monthly measure.....	-213	-225	-226	-236	-217	-222
Establish the retirement test exempt amount for beneficiaries aged 65 and over as a measure of substantial gainful activity for blind disabled workers.....		1	1	1	2	2
Elimination of retroactive payments of actuarially reduced benefits.....	-339	-536	-550	-559	-565	-569
Limitation on increases in actuarially reduced benefits.....	-90	-280	-500	-751	-948	-1,157
Increase in benefits of surviving spouses, resulting from deceased workers' delayed retirement credits.....	3	4	5	7	10	13
Delayed retirement credits for workers with actuarially reduced benefits.....		14	22	24	26	30
Offset to benefits of spouses receiving public retirement pensions.....	-68	-106	-108	-110	-112	-116
Eliminate reduction in widowed spouses benefits due to remarriage after age 60.....		130	155	166	178	189
Reduction in duration of marriage required for divorced spouses benefits from 20 years to 10 years.....		67	80	86	92	98
Increase in special minimum benefits.....		12	14	14	15	16
Changes in annual wage reporting provisions.....	(²)	1	4	9	18	26
Authorization to enter into totalization agreements ³	(²)	5	4	4	5	6
Increases in contribution and benefit base.....		(²)	21	62	161	281

¹ Exempt amount increased for beneficiaries aged 65 and over to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, \$5,500 in 1981, and \$6,000 in 1982.

² Less than \$500,000.

³ The estimates represent additional OASDI benefit payments that would result from implementation of totalization agreements already signed with Italy and West Germany.

No agreement can become effective if either House of Congress disapproves the agreement within 90 days after it is submitted to Congress.

NOTE.—A positive figure represents additional benefit payments, and a negative figure represents a reduction in benefit payments.

IV. MEDIUM-RANGE AND LONG-RANGE COST ESTIMATES FOR THE OASDI SYSTEM

For the OASDI system under the Act prior to the amendments in Public Law 95-216, table 7 shows a comparison of the estimated expenditures (as percent of taxable payroll) with the scheduled tax rates for selected years between 1977 and 2055.

This table shows that the estimated cost rises to a level of about 27 percent of taxable payroll by the end of the projection period, largely because of the method of adjusting the benefit formula under the law prior to the decoupling amendments in Public Law 95-216. It also shows projected deficits in each year of the projection period, with an average long-range deficit of 8.20 percent of taxable payroll.

TABLE 7.—*Comparison of the estimated expenditures with the scheduled tax rates for the old-age, survivors, and disability insurance system prior to amendment by Public Law 95-216, calendar years 1977-2055*

[In percent of taxable payroll]

Calendar year	Estimated expenditures			Tax rate	Difference
	Old-age and survivors insurance	Disability insurance	Total		
1977	9.39	1.50	10.89	9.90	-0.99
1978	9.38	1.53	10.91	9.90	-1.01
1979	9.30	1.55	10.85	9.90	-.95
1980	9.21	1.59	10.80	9.90	-0.90
1981	9.23	1.65	10.88	9.90	-.98
1982	9.31	1.71	11.01	9.90	-1.11
1983	9.40	1.77	11.17	9.90	-1.27
1984	9.51	1.85	11.36	9.90	-1.46
1985	9.64	1.92	11.56	9.90	-1.66
1986	9.76	1.99	11.76	9.90	-1.86
1987	9.86	2.06	11.92	9.90	-2.02
1988	9.94	2.13	12.08	9.90	-2.18
1989	10.03	2.20	12.23	9.90	-2.33
1990	10.12	2.27	12.39	9.90	-2.49
1991	10.20	2.34	12.54	9.90	-2.64
1992	10.28	2.41	12.69	9.90	-2.79
1993	10.35	2.48	12.83	9.90	-2.93
1994	10.42	2.56	12.98	9.90	-3.08
1995	10.50	2.64	13.13	9.90	-3.23
1996	10.54	2.73	13.27	9.90	-3.37
1997	10.60	2.83	13.42	9.90	-3.52
1998	10.66	2.92	13.58	9.90	-3.68
1999	10.72	3.02	13.75	9.90	-3.85
2000	10.79	3.12	13.92	9.90	-4.02
2001	10.89	3.23	14.12	9.90	-4.22
2005	11.30	3.66	14.95	9.90	-5.05
2010	12.47	4.11	16.57	9.90	-6.67
2015	14.47	4.42	18.89	11.90	-6.99
2020	17.05	4.59	21.64	11.90	-9.74
2025	19.75	4.55	24.30	11.90	-12.40
2230	21.57	4.45	26.02	11.90	-14.12
2035	22.26	4.43	26.69	11.90	-14.79
2040	22.12	4.55	26.67	11.90	-14.77
2045	21.83	4.76	26.59	11.90	-14.69
2050	22.02	4.91	26.93	11.90	-15.03
2055	22.53	4.98	27.51	11.90	-15.61

TABLE 7.—Comparison of the estimated expenditures with the scheduled tax rates for the old-age, survivors, and disability insurance system prior to amendment by Public Law 95-216, calendar years 1977-2055—Continued

[In percent of taxable payroll]

Calendar year	Estimated expenditures			Tax rate	Difference
	Old-age and survivor insurance	Disability insurance	Total		
25-yr averages:					
1977-2001-----	10.00	2.24	12.24	9.90	-2.34
2002-26-----	14.65	4.20	18.86	11.18	-7.68
2027-51-----	21.86	4.61	26.47	11.90	-14.57
75-yr average: 1977-					
2051-----	15.51	3.68	19.19	10.99	-8.20

NOTE.—Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. These assumptions incorporate ultimate annual increases of 5¼ percent in average wages in covered employment and 4 percent in Consumer price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

Table 8 shows a similar comparison for the OASDI system after the amendments in Public Law 95-216. This table shows that, because of the decoupling amendments, the estimated cost rises to a much lower level of about 16 or 17 percent of taxable payroll near the end of the projection period, with an average long-range deficit of 1.46 percent of taxable payroll. It also shows that, except for the initial 2 years 1978-79 the scheduled taxes will cover the projected cost of the system until well after the turn of the century, but that the ultimate tax rate of 12.40 will nonetheless fail to cover the cost projected after the year 2010.

TABLE 8.—Comparison of the estimated expenditures with the scheduled tax rates for the old-age, survivors, and disability insurance system as amended by Public Law 95-216, calendar years 1977-2055

[In percent of taxable payroll]

Calendar year	Estimated expenditures			Tax rate	Difference
	Old-age and survivors insurance	Disability insurance	Total		
1977-----	9.39	1.50	10.89	9.90	-0.99
1978-----	9.33	1.53	10.86	10.10	-.76
1979-----	8.80	1.47	10.28	10.16	-.12
1980-----	8.63	1.48	10.11	10.16	.05
1981-----	8.51	1.49	10.00	10.70	.70
1982-----	8.59	1.53	10.11	10.80	.69
1983-----	8.65	1.57	10.22	10.80	.58
1984-----	8.71	1.62	10.33	10.80	.47
1985-----	8.79	1.66	10.45	11.40	.95
1986-----	8.85	1.70	10.56	11.40	.84
1987-----	8.91	1.74	10.65	11.40	.75
1988-----	8.81	1.78	10.60	11.40	.80
1989-----	8.76	1.83	10.59	11.40	.81

TABLE 8.—Comparison of the estimated expenditures with the scheduled tax rates for the old-age, survivors, and disability insurance system as amended by Public Law 95-216, calendar years 1977-2055—Continued

[In percent of taxable payroll]

Calendar year	Estimated expenditures			Tax rate	Difference
	Old-age and survivor insurance	Disability insurance	Total		
1990	8.71	1.87	10.58	12.40	1.82
1991	8.70	1.91	10.61	12.40	1.79
1992	8.69	1.95	10.64	12.40	1.76
1993	8.68	1.99	10.67	12.40	1.73
1994	8.68	2.03	10.71	12.40	1.69
1995	8.68	2.07	10.75	12.40	1.65
1996	8.66	2.12	10.78	12.40	1.62
1997	8.64	2.18	10.82	12.40	1.58
1998	8.63	2.23	10.86	12.40	1.54
1999	8.63	2.28	10.91	12.40	1.49
2000	8.63	2.34	10.96	12.40	1.44
2001	8.64	2.40	11.04	12.40	1.36
2005	8.71	2.64	11.35	12.40	1.05
2010	9.30	2.88	12.17	12.40	.23
2015	10.45	2.99	13.44	12.40	-1.04
2020	11.97	3.02	14.99	12.40	-2.59
2025	13.49	2.91	16.40	12.40	-4.00
2030	14.35	2.78	17.13	12.40	-4.73
2035	14.45	2.70	17.15	12.40	-4.75
2040	13.97	2.72	16.69	12.40	-4.29
2045	13.50	2.79	16.29	12.40	-3.89
2050	13.35	2.82	16.18	12.40	-3.78
2055	13.41	2.83	16.24	12.40	-3.84
25-yr averages:					
1977-2001	8.75	1.85	10.60	11.57	.97
2002-26	10.59	2.86	13.46	12.40	-1.06
2027-51	13.93	2.77	16.69	12.40	-4.29
75-yr average:					
1977-2051	11.09	2.49	13.58	12.12	-1.46

NOTE.—See note to table 7.

In addition, table 8 shows that the 75-year actuarial deficit of 1.46 percent of taxable payroll is a composite of significant surpluses in the medium-range and large deficits after that period. The last column of this table shows for the medium-range period (1977-2001) an estimated actuarial surplus of 0.97 percent of taxable payroll (based on an average scheduled tax rate of 11.57 percent and estimated average expenditures of 10.60 percent of taxable payroll). However, for the last 25-year period (2026-2051), the table shows a projected deficit of 4.29 percent of taxable payroll (based on an average tax schedule of 12.40 percent and average expenditures of 16.69 percent of taxable payroll). The entire 75-year long-range actuarial deficit of 1.46 percent of taxable payroll is based on an average scheduled tax rate of 12.12 and estimated average expenditures of 13.58 percent of taxable payroll.

Since this deficit is larger than 0.68 percent of taxable payroll (which is 5 percent of the estimated cost of 13.58 percent of taxable payroll) the system as amended is not considered to be in close long-range actuarial balance.

Table 9 shows the projected OASI and DI trust fund ratios under the Act prior to the amendments in Public Law 95-216. This table shows that the trust fund ratio for each of the two systems drops quickly to zero, with the OASI and DI trust funds projected to become exhausted in 1983 and 1979, respectively.

TABLE 9.—*Estimated trust fund ratios for the OASDI system under the Social Security Act prior to amendment by Public Law 95-216, calendar years 1977-84*

Calendar year	Funds at beginning of year as percentage of disbursements during year			Funds at end of year as percentage of disbursements during year		
	OASI	DI	OASDI	OASI	DI	OASDI
1977-----	47	48	47	43	27	41
1978-----	38	24	36	33	4	29
1979-----	31	3	27	26	(¹)	² 19
1980-----	24	(¹)	² 18	19	(¹)	² 10
1981-----	18	(¹)	² 9	12	(¹)	(^{2 3})
1982-----	11	(¹)	(^{2 3})	3	(¹)	(⁴)
1983-----	3	(¹)	(⁴)	(⁵)	(¹)	(⁴)
1984-----	(⁵)	(¹)	(⁴)	(⁵)	(¹)	(⁴)

¹ DI trust fund exhausted in 1979.

² Figures are theoretical because the DI trust fund is exhausted in 1979.

³ Figure is less than 0.5 percent.

⁴ Combined OASDI trust funds are exhausted in 1982.

⁵ OASI trust fund exhausted in 1983.

Table 10 shows the projected estimates of the OASI and DI trust fund ratios which result under the act after the amendments in Public Law 95-216. As a percent of annual expenditures the OASI trust fund is projected to grow until around the year 2010, reaching levels of about 400 percent of annual expenditures, after which it declines steadily before being exhausted in the year 2032. The DI trust fund ratio attains its maximum value (of about 130 to 140 percent of annual expenditures) around the year 1996 and becomes exhausted in the year 2008.

It should be noted that, under current assumptions, financing the relatively high costs projected to occur after the turn of the century by means of tax rates higher than needed to cover the cost of the program before that time will result in the accumulation of trust funds substantially higher than are necessary for contingency purposes.

TABLE 10.—*Estimated trust fund ratios for the OASDI system under the Social Security Act as amended by Public Law 95-216, calendar years 1977-2035*

Calendar Year	Funds at beginning of year as percentage of disbursements during year			Funds at end of year as percentage of disbursements during year		
	OASI	DI	OASDI	OASI	DI	OASDI
1977	47	48	47	43	27	41
1978	39	24	37	33	25	32
1979	30	23	29	29	26	28
1980	26	23	26	28	25	28
1981	26	23	25	33	34	33
1982	30	31	30	39	41	39
1983	36	38	36	44	45	44
1984	41	41	41	49	46	48
1985	45	42	45	56	58	56
1986	52	53	52	63	69	64
1987	58	63	59	69	76	70
1988	65	69	66	77	81	78
1989	73	74	73	87	84	86
1990	82	77	81	106	100	105
1991	99	92	98	124	114	122
1992	117	105	115	142	126	139
1993	134	116	131	161	135	156
1994	151	124	146	180	141	172
1995	169	130	161	198	146	188
1996	187	133	176	218	146	204
1997	205	134	191	237	144	219
1998	224	133	205	257	140	233
1999	242	129	218	277	134	247
2000	261	123	231	297	125	260
2001	279	115	243	316	114	272
2005	348	63	281	388	50	310
2010	398	(1)	² 297	435	(1)	² 318
2015	387	(1)	² 267	410	(1)	² 277
2020	317	(1)	² 195	323	(1)	² 190
2025	207	(1)	² 91	195	(1)	² 72
2030	76	(1)	(³)	51	(1)	(³)
2035	(⁴)	(1)	(³)	(⁴)	(1)	(³)

¹ Fund exhausted in 2008.

² Figures are theoretical because the DI trust fund is exhausted in 2008.

³ Fund exhausted in 2028.

⁴ Fund exhausted in 2032.

Table 11 shows for the OASDI system the estimated effect on the actuarial balance over the medium-range of the various provision in Public Law 95-216. The comparable effect on the long-range actuarial balance of the OASDI system is shown in table 12. It may be observed from these tables that the large actuarial deficits projected under the prior law are substantially reduced for both the OASI and DI programs by the amendments in Public Law 95-216.

Over the medium-range the OASDI system is projected to operate with a surplus of 0.97 percent of taxable payroll. The modifications

in Public Law 95-216 were more than was needed to cover the projected deficit. However, this is not the case over the 75-year long-range period. According to table 12, the OASDI system as amended would still have a long-range actuarial deficit of 1.46 percent of taxable payroll.

TABLE 11.—Changes in the actuarial balance of the OASDI system over the medium-range period (1977-2001) under the Social Security Act as amended by Public Law 95-216

[As percent of taxable payroll]			
Item	OASI	DI	OASDI
Under the act prior to amendments in Public Law 95-216:			
Medium-range expenditures.....	10.00	2.24	12.24
Medium-range tax rate.....	8.55	1.35	9.90
Medium-range actuarial balance.....	-1.45	-.89	-2.34
Wage-indexed decoupling to eligibility.....	.33	.19	.52
5-percent benefit reduction from the 1979 level.....	.26	.08	.33
Frozen minimum at the December 1978 level.....	.03	.01	.04
Changes in the special minimum.....	0	0	0
Government pension offset.....	.02	0	.02
Changes in the retirement test.....	-.09	0	-.09
3-percent delayed retirement credit.....	-.02	-----	-.02
Delayed retirement credit for widows.....	-.01	-----	-.01
Remarriage after age 60 of widowed spouse beneficiaries.....	-.01	0	-.01
Elimination of retroactive payments of actuarially reduced benefits.....	.02	0	.02
Change in the method of increasing actuarially reduced benefits.....	.13	0	.13
Changes in SGA for the blind.....	-----	0	0
Employer tax liability on tips deemed to be wages.....	0	0	0
Correction of coverage regarding limited partnerships.....	0	0	0
Tax relief for affiliated corporations.....	0	0	0
10-year marriage requirement for divorced beneficiaries.....	0	0	0
Annual reporting of earnings.....	0	0	0
Changes in the earnings base.....	.53	.10	.63
Change in self-employed tax rate to 150 percent of employee tax rate.....	.05	.01	.06
Change in employee-employer tax schedule.....	1.09	.59	1.68
Total effect of Public Law 95-216.....	2.34	.97	3.31
Under the act as amended through Public Law 95-216:			
Medium-range actuarial balance.....	+.89	+.08	+.97
Medium-range tax rate.....	9.64	1.93	11.57
Medium-range expenditures.....	8.75	1.85	10.60

NOTE.—Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. These assumptions incorporate ultimate annual increases of 5% percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contributions rates on self-employed income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

TABLE 12.—Changes in the actuarial balance of the OASDI system over the long-range period (1977-2051) under the Social Security Act as amended by Public Law 95-216

[As percent of taxable payroll]

Item	OASI	DI	OASDI
Under the act prior to amendments in Public Law 95-216:			
Long-range expenditures.....	15.51	3.68	19.19
Long-range tax rate.....	9.45	1.55	10.99
Long-range actuarial balance.....	-6.06	-2.14	-8.20
Wage-indexed decoupling to eligibility.....	3.19	.95	4.13
5-percent benefit reduction from the 1979 level.....	.53	.13	.66
Frozen minimum at the December 1978 level.....	.07	.02	.08
Changes in the special minimum.....	0	0	0
Government pension offset.....	.04	0	.04
Changes in the retirement test.....	-.11	0	-.11
3-percent delayed retirement credit.....	-.04	-----	-.04
Delayed retirement credit for widows.....	-.01	-----	-.01
Remarriage after age 60 of widowed spouse beneficiaries.....	-.01	0	-.01
Elimination of retroactive payments of actuarially reduced benefits.....	.01	0	.01
Change in the method of increasing actuarially reduced benefits.....	.24	0	.24
Changes in SGA for the blind.....	-----	0	0
Employer tax liability on tips deemed to be wages.....	0	0	0
Correction of coverage regarding limited partnerships.....	0	0	0
Tax relief for affiliated corporations.....	0	0	0
10-year marriage requirement for divorced beneficiaries.....	0	0	0
Annual reporting of earnings.....	-.01	0	-.01
Changes in the earnings base.....	.45	.08	.54
Change in self-employed tax rate to 150 percent of employee tax rate.....	.08	.02	.10
Change in employee-employer tax schedule.....	.57	.57	1.14
Total effect of Public Law 95-216.....	4.98	1.75	6.74
Under the act as amended through Public Law 95-216:			
Long-range actuarial balance.....	-1.08	-.38	-1.46
Long-range tax rate.....	10.01	2.11	12.12
Long-range expenditures.....	11.09	2.49	13.58

NOTE.—Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. These assumptions incorporate ultimate annual increases of 5½ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contributions rates on self-employed income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

V. SENSITIVITY OF THE OASDI COST ESTIMATES TO CHANGES IN SELECTED ASSUMPTIONS

In the 1977 Report of the Board of Trustees of the Old-Age and Survivors Insurance and Disability Insurance Trust Funds, three alternative sets of assumptions were used to present a probable range of future expenditures. These three sets of assumptions are designated as alternative I, alternative II, and alternative III, respectively; they may be respectively cited as optimistic, intermediate, and pessimistic.

These assumptions are summarized in table 1 in the first section of this report; they are fully described in the 1977 OASDI Trustees Report.

Table 13 below shows average expenditures over each of the next three 25-year periods and over the entire 75-year period under these three sets of optimistic, intermediate, and pessimistic assumptions. The average expenditures are shown in that table for the OASDI system prior to amendment through Public Law 95-216 as well as after the amendment.

As shown by table 13 and the accompanying sensitivity analysis, the amendments in Public Law 95-216 significantly reduce the sensitivity of the OASDI system to changing economic assumptions. This greater stability in the system under the new law results from the decoupling provisions included in the legislation.

TABLE 13.—*Long-range expenditures of the OASDI system under the Social Security Act prior to amendments in Public Law 95-216, and as amended, estimated under alternatives I, II, and III*

	Average expenditures as percent of taxable payroll ¹		
	Alternative I	Alternative II	Alternative III
Under the act prior to amendments in Public Law 95-216:			
1st 25-yr period (1977-2001).....	11.57	12.24	13.14
2d 25-yr period (2002-26).....	15.12	18.85	24.51
3d 25-yr period (2027-51).....	17.93	26.47	43.61
Total, 75-yr period (1977-2051).....	14.87	19.19	27.08
Under the act as amended by Public Law 95-216:			
1st 25-yr period (1977-2001).....	10.30	10.60	10.95
2d 25-yr period (2002-26).....	12.71	13.46	14.62
3d 25-yr period (2027-51).....	14.96	16.69	20.57
Total, 75-yr period (1977-2051).....	12.66	13.58	15.38

¹ Taxable payroll is adjusted to take into account the lower contribution rate on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

1. Sensitivity to Consumer Price Index assumptions

Table 14 shows the average OASDI expenditures over each of the three 25-year periods and the entire 75-year period under assumptions of annual CPI increases of 2 percent, 4 percent, and 6 percent. In all cases the ultimate real-wage differential is assumed to be 1¾ percent, yielding ultimate percentage increases in average annual wages of 3¾ percent, 5¾ percent, and 7¾ percent, respectively; all other assumptions are the same as those included in the alternative II set of assumptions. The table indicates the expenditures as percent of taxable payroll under both the law prior to the amendments and the law as amended by Public Law 95-216.

As shown in table 14, under the prior law the 75-year average expenditures (as a percent of taxable payroll) of the OASDI system

were highly sensitive to changes in CPI assumptions. The average expenditures were estimated to increase by about 7 percent of the estimated cost of the system for each 1 percent increase in the CPI assumption. However, under the amended act, the average expenditures are significantly less sensitive to CPI assumptions, decreasing by less than 2 percent of the estimated cost of the system for each 1 percent increase in the CPI assumption. This remaining sensitivity of the system to the CPI assumption occurs primarily because of the time lag between the effect on the income to the system and the effect on benefit expenditures.

TABLE 14.—Long-range expenditures of the OASDI system under the Social Security Act prior to amendments in Public Law 95-216, and as amended, based on various Consumer Price Index assumptions

[As percent of taxable payroll]

	Average expenditures as percent of taxable payroll ¹ assuming ultimate wage-CPI increases of— ²		
	3¼ to 2	5¼ to 4	7¼ to 6
Under the act prior to amendments in Public Law 95-216:			
1st 25-yr period (1977-2001).....	12. 16	12. 24	12. 34
2d 25-yr period (2002-26).....	16. 81	18. 85	21. 09
3d 25-yr period (2027-51).....	20. 75	26. 47	32. 47
Total, 75-yr period (1977-2051).....	16. 58	19. 19	21. 96
Under the act as amended by Public Law 95-216:			
1st 25-yr period (1977-2001).....	10. 81	10. 60	10. 40
2d 25-yr period (2002-26).....	13. 96	13. 46	13. 01
3d 25-yr period (2027-51).....	17. 34	16. 69	16. 11
Total, 75-yr period (1977-2051).....	14. 04	13. 58	13. 17

¹ Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.
² The initial value in each pair refers to the assumed annual percentage increases in average wages after 1982. The 2d value refers to the assumed annual percentage increases in CPI after 1982. The assumptions used in the 1977-82 period were adjusted so as to gradually reflect the ultimate change. All other assumptions are given by alternative II.

2. Sensitivity to average real wage assumptions

Table 15 shows the average OASDI expenditures over each of the three 25-year periods and the entire 75-year period under assumptions of real wage differentials of 1 percent, 1¼ percent, and 2½ percent. In all cases, the annual increases in the CPI are assumed to be 4 percent, thereby yielding ultimate increases in annual average wages of 5½ percent, 5 percent, and 6½ percent, respectively; all other assumptions are the same as those included in the alternative II set of assumptions. The table shows expenditures under the law prior to amendment through Public Law 95-216 as well as under the new law as amended.

As shown in table 15, over the 75-year projection period the average expenditures of the old-age, survivors, and disability insurance system were highly sensitive to changes in the real wage assumption under

the prior law. Average expenditures as percent of payroll varied by more than 24 percent of the estimated cost of the system for each 1 percent change in the real wage assumption. Under the new law as amended average expenditures as percent of payroll over the 75-year period are significantly less sensitive to changes in the real wage assumption, varying by less than 9 percent of the estimated cost of the system for each 1 percent change in the real wage assumption.

TABLE 15.—*Long-range expenditures of the OASDI system under the Social Security Act prior to amendments in Public Law 95-216, and as amended, based on various real earnings assumptions*

[As percent of taxable payroll]

	Average expenditures as percent of taxable payroll ¹ under ultimate earnings-CPI increases of — ²		
	5 to 4	5¼ to 4	6½ to 4
Under the act prior to amendments in Public Law 95-216:			
1st 25-yr period (1977-2001).....	13. 19	12. 24	11. 42
2d 25-yr period (2002-26).....	23. 33	18. 85	15. 45
3d 25-yr period (2027-51).....	36. 09	26. 47	20. 02
Total, 75-yr period (1977-2051).....	24. 20	19. 19	15. 64
Under the act as amended by Public Law 95-216:			
1st 25-yr period (1977-2001).....	11. 11	10. 60	10. 15
2nd 25-yr period (2002-26).....	14. 46	13. 46	12. 56
3rd 25-yr period (2027-51).....	17. 97	16. 69	15. 55
Total, 75-yr period (1977-2051).....	14. 51	13. 58	12. 75

¹ Taxable payroll is adjusted to taken into account the lower contribution rate on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

² The initial value in each pair refers to the assumed annual percentage increases in average earnings after 1982. The 2d value refers to the assumed annual percentage increases in the CPI after 1982. The difference in the 2 values is approximately the annual increase in real earnings. The assumptions used in the 1977-82 period were adjusted appropriately. All other assumptions are given by alternative II.

3. Sensitivity to ultimate total fertility rate assumptions

Table 16 shows average OASDI expenditures over each of the next three 25-year periods and over the entire 75-year period based on ultimate total fertility rates of 1.7, 1.9, 2.1, and 2.3 children per woman; all other assumptions are the same as those included in the alternative II set of assumptions. The table shows the average expenditures under the law prior to amendment through Public Law 95-216 as well as under the new law as amended.

As shown in table 16, over the 75-year period average expenditures as a percent of taxable payroll of the OASDI system are highly sensitive to changes in fertility assumptions under both the prior law and the new law. Relative percentage increases (or decreases) in average expenditures as percent of payroll are substantially the same under both systems. The expenditures increase by approximately 2 percent of the estimated cost of the system for each 0.1 decrease in the ultimate total fertility rate.

TABLE 16.—*Long-range expenditures of the OASDI system under the Social Security Act prior to amendments in Public Law 95-216, and as amended, under alternative II based on various fertility assumptions*

[As percent of taxable payroll]

	Average expenditures as percent of taxable payroll ¹ assuming ultimate total fertility rate of— ²			
	1.7	1.9	2.1	2.3
Under the act prior to amendments in Public Law 95-216:				
1st 25-yr period (1977-2001)-----	12.22	12.24	12.24	12.26
2d 25-yr period (2002-26)-----	19.71	19.26	18.85	18.47
3d 25-yr period (2027-51)-----	31.05	28.58	26.47	24.63
Total, 75-year period (1977-2051) ..	21.00	20.03	19.19	18.45
Under the act as amended by Public Law 95-216:				
1st 25-yr period (1977-2001)-----	10.59	10.59	10.60	10.61
2d 25-yr period (2002-26)-----	14.05	13.75	13.46	13.19
3d 25-yr period (2027-51)-----	19.57	18.04	16.69	15.53
Total, 75-year period (1977-2051) ..	14.74	14.13	13.58	13.11

¹ Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

² The total fertility rate is expressed in terms of children. All other assumptions are given by alternative II.

VI. COST ESTIMATES OF THE HI SYSTEM

The estimates in this section cover projections of the operations of the HI program over the short-range (the next 10 years) as well as over the long-range (the next 25 years).

1. Short-range estimates

The estimated progress of the HI trust fund in absolute dollar amounts during calendar years 1977-87 is shown in table 17, along with actual experience for 1972-76. The trust fund balance at the beginning of 1976 was 77 percent of disbursements during 1976. The ratio of assets in the trust fund to disbursements in the year is projected to decline over the next 5 years to a level of 39 percent at the beginning of 1981. Following a small rise in 1982-84, the ratio declines steadily until the trust fund is exhausted in 1988. As shown by this table, the estimated operations of the HI trust fund over the 10-year period differ slightly year-to-year from the estimated operations under prior law; however, the overall financial status during the period remains substantially unchanged.

In the 1977 HI trustees report, two additional sets of assumptions (labeled alternative I and III) were used to present the probable range of future operations of the trust fund. An explanation of these sets of assumptions can be found in that report. Alternatives I and III provide for a fairly wide range of possible experience. The projected trust fund development under the less optimistic alternative III provides a measure of the strength of the financing of the system, since an

adequate financing schedule ought to be sufficiently strong to withstand, for a period of several consecutive years, conditions in the general economy and in the hospital sector which are substantially more adverse than anticipated under the central set of assumptions (alternative II).

TABLE 17.—Operations of the hospital insurance trust fund, under the Social Security Act prior to amendments in Public Law 95-216, and as amended, calendar years 1972-87

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in fund	Fund at end of period	Fund at beginning of year as a percentage of disbursements during year
1972.....	\$6.4	\$6.5	-\$0.1	\$2.9	47
1973.....	10.8	7.3	3.5	6.5	40
1974.....	12.0	9.4	2.7	9.1	69
1975.....	13.0	11.6	1.4	10.5	79
1976.....	13.8	13.7	.1	10.6	77
Under the act prior to amendments in Public Law 95-216					
Estimated future experience:					
1977.....	\$16.1	\$16.2	-\$0.1	\$10.5	66
1978.....	20.9	19.0	1.9	12.4	55
1979.....	23.4	22.2	1.2	13.6	56
1980.....	25.6	25.7	-.1	13.4	53
1981.....	33.2	29.7	3.6	17.0	45
1982.....	36.2	33.9	2.3	19.3	50
1983.....	38.6	38.5	.1	19.4	50
1984.....	41.0	43.7	-2.6	16.7	44
1985.....	43.3	49.1	-5.9	10.9	34
1986.....	50.2	54.9	-4.7	6.2	20
1987.....	53.4	61.2	-7.8	(¹)	10
Under the act as amended by Public Law 95-216					
1977.....	\$16.1	\$16.2	-\$0.1	\$10.5	66
1978.....	19.2	19.0	.2	10.7	55
1979.....	23.1	22.2	.9	11.6	48
1980.....	25.7	25.7	² 0	11.5	45
1981.....	34.0	29.7	4.3	15.9	39
1982.....	37.1	33.9	3.3	19.1	47
1983.....	39.7	38.5	1.2	20.3	50
1984.....	42.3	43.7	-1.4	19.0	47
1985.....	46.3	49.1	-2.8	16.1	39
1986.....	52.4	54.9	-2.5	13.6	29
1987.....	55.8	61.2	-5.4	8.2	22

¹ Fund exhausted in 1987.

² Outgo exceeds income by less than \$50,000,000.

NOTE.—Figures may not add due to rounding.

Under the more optimistic alternative I, the trust fund is projected to grow to a maximum level of between 90 and 100 percent of a year's disbursements during the mid-1980's. Under the less optimistic alternative III, the trust fund, as a percent of a year's disbursements, is projected to decline steadily, with complete exhaustion in 1985.

2. Long-range estimates

The adequacy of the financing of the HI system traditionally has been measured by comparing on a year-to-year basis the tax rates scheduled in law with the corresponding total costs of the program, expressed as percentages of taxable payroll. If these two items are exactly equal in each year of the 25-year projection period and all projection assumptions are realized, tax revenues along with interest income will be sufficient to provide for benefits and administrative expenses for insured persons and to build the trust fund gradually to the level of a year's outgo by the end of the period. Financing under this principle provides for the development of the sizable fund that is needed to cover program liabilities for services which have been performed but not reimbursed and to cover the contingency that future income and expenditures may differ substantially from projected levels.

The long-range actuarial balance of the HI system is defined to be the excess of the average tax rate for the 25-year valuation period over the average cost of the program, expressed as a percent of taxable payroll, for the same period. If the difference is positive (i.e., if the average tax rate exceeds the average cost), the system is said to have an actuarial surplus; if it is negative, the system is said to have an actuarial deficit. In addition, if that difference is less than 5 percent of the average cost, the system is said to be in close actuarial balance.

Table 18 shows the estimated total cost for the HI program prior to amendments in Public Law 95-216, expressed in percent of taxable payroll for years 1977-2001 with comparison between costs and tax rates scheduled in the law.

Table 19 shows corresponding estimates for the HI program as amended by Public Law 95-216. The projected total cost of the program, including expenditures plus trust fund building and maintenance, exceeds the scheduled tax rate in every year but one. Furthermore, projected expenditures for benefits and administrative expenses alone exceed the corresponding tax rates in all but 2 of the 25 years. Over the entire 25-year period, an estimated long-range actuarial deficit of 1.01 percent of taxable payroll results (based on an average scheduled tax rate of 2.70 percent and an estimated average cost of 3.71 percent).

The change in the estimated actuarial balance from that under the prior law is shown, by type of provision, in table 20.

The estimated long-range actuarial deficit of 1.01 percent of taxable payroll, although less than the long-range deficit projected under prior law, is well in excess of the range for close actuarial balance

(5 percent of the 3.71 percent average cost, which amounts to 0.19 percent of taxable payroll). Under more optimistic assumptions as to future economic, demographic, and health care usage and cost trends (alternative I), a small actuarial deficit of between 0.10 and 0.20 percent of payroll would result. However, under less optimistic assumptions (alternative III), an actuarial deficit of approximately 2 percent of taxable payroll would be produced.

TABLE 18.—*Estimated cost of hospital insurance system prior to amendment by Public Law 95-216, calendar years 1977-2001*

[In percent of taxable payroll]

Calendar year	Expenditures under the program ¹	Trust fund building and maintenance ²	Total cost of the program	Tax rate in law ³	Difference
1977	1.99	0.15	2.14	1.80	-0.34
1978	2.11	.15	2.26	2.20	-.16
1979	2.23	.15	2.38	2.20	-.18
1980	2.35	.14	2.49	2.20	-.29
1981	2.51	.12	2.63	2.70	.07
1982	2.67	.12	2.79	2.70	-.09
1983	2.84	.12	2.96	2.70	-.26
1984	3.02	.11	3.13	2.70	-.43
1985	3.19	.11	3.30	2.70	-.60
1986	3.35	.11	3.46	3.00	-.46
1987	3.51	.11	3.62	3.00	-.62
1988	3.68	.11	3.79	3.00	-.79
1989	3.84	.10	3.94	3.00	-.94
1990	4.02	.10	4.12	3.00	-1.12
1991	4.17	.10	4.27	3.00	-1.27
1992	4.33	.10	4.43	3.00	-1.43
1993	4.49	.10	4.59	3.00	-1.59
1994	4.66	.10	4.76	3.00	-1.76
1995	4.84	.09	4.93	3.00	-1.93
1996	5.00	.09	5.09	3.00	-2.09
1997	5.15	.09	5.24	3.00	-2.24
1998	5.31	.09	5.40	3.00	-2.40
1999	5.47	.09	5.56	3.00	-2.56
2000	5.64	.09	5.73	3.00	-2.73
2001	5.81	.09	5.90	3.00	-2.90
Average ⁴	3.85	.11	3.96	2.80	-1.16

¹ Ratio of benefit payments and administrative expenses for insured beneficiaries to taxable payroll. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income and on multiple-employer "excess wages."

² Allowance for building the trust fund balance to the level of a year's outgo and maintaining it at that level, after accounting for the offsetting effects of interest earnings.

³ Rate for employers and employees, combined.

⁴ Average for the 25-yr period 1977-2001.

TABLE 19.—*Estimated cost of hospital insurance system as amended by Public Law 95-216, calendar years 1977-2001*

[In percent of taxable payroll]

Calendar year	Expenditures under the program ¹	Trust fund building and maintenance ²	Total cost of the program	Tax rate in law ³	Difference
1977	1.99	0.15	2.14	1.80	-0.34
1978	2.11	.15	2.26	2.00	-.26
1979	2.13	.14	2.27	2.10	-.17
1980	2.22	.13	2.35	2.10	-.25
1981	2.34	.12	2.46	2.60	.14
1982	2.49	.12	2.61	2.60	-.01
1983	2.66	.12	2.78	2.60	-.18
1984	2.83	.11	2.94	2.60	-.34
1985	2.98	.11	3.09	2.70	-.39
1986	3.13	.11	3.24	2.90	-.34
1987	3.28	.11	3.39	2.90	-.49
1988	3.43	.11	3.54	2.90	-.64
1989	3.61	.10	3.71	2.90	-.81
1990	3.76	.10	3.86	2.90	-.96
1991	3.90	.10	4.00	2.90	-1.10
1992	4.05	.10	4.15	2.90	-1.25
1993	4.21	.10	4.31	2.90	-1.41
1994	4.37	.10	4.47	2.90	-1.57
1995	4.52	.09	4.61	2.90	-1.71
1996	4.66	.09	4.75	2.90	-1.85
1997	4.81	.09	4.90	2.90	-2.00
1998	4.95	.09	5.04	2.90	-2.14
1999	5.11	.09	5.20	2.90	-2.30
2000	5.27	.09	5.36	2.90	-2.46
2001	5.43	.09	5.52	2.90	-2.62
Average ⁴	3.60	.11	3.71	2.70	-1.01

¹ Ratio of benefit payments and administrative expenses for insured beneficiaries to taxable payroll. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income and on multiple-employer "excess wages."

² Allowance for building the trust fund balance to the level of a year's outgo and maintaining it at that level, after accounting for the offsetting effects of interest earnings.

³ Rate for employers and employees, combined.

⁴ Average for the 25-yr period 1977-2001.

TABLE 20.—*Changes in the actuarial balance of the hospital insurance system over the long range under the Social Security Act as amended by Public Law 95-216 (as a percent of taxable payroll)*

Item:	Percent
Actuarial balance under prior law	-1.16
Increase in wage base	+ .25
Revised tax schedule	-.10
Total effect of changes in Public Law 95-216	+ .15
Actuarial balance under present law	-1.01

NOTE.—Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which is described in the 1977 Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund. These assumptions incorporate ultimate annual increases of 5¼ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rate on self-employment income and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

VII. COST ESTIMATES OF THE SMI SYSTEM

Financing for the SMI system is established annually on the basis of standard monthly premium rates which are paid by participants and monthly adequate actuarial rates on which general revenue contributions are based. The monthly adequate actuarial rate (separately determined for aged and disabled enrollees) is based, according to statute, on the projected monthly cost per enrollee for benefits and administrative expenses—adjusted to allow for interest earnings on assets in the trust fund, to allow for a contingency margin, and to allow for amortization of any prior year unfunded liabilities.

The financial soundness of the SMI system can be assessed by (1) comparing the estimated income for future periods for which the premium rate and the level of general revenue financing have been established with the estimated incurred benefits and administrative expenses for such periods, (2) considering the excess of assets over liabilities, and (3) considering the size of the trust fund balance. The law requires that the SMI system be financed on an incurred basis. Thus, the amount of assets in the trust fund at any time should be no less than the cost of the benefits and administrative expenses incurred but not yet paid. Because the financing is established prospectively and subject to projection error, the income to the program may not be equal to incurred costs. Therefore, trust fund assets should be maintained at a level which is adequate to cover the impact of a moderate degree of projection error as well as the value of incurred but unpaid expenses.

The estimated actuarial status of the SMI trust fund as of June 30 for each of the years 1977-79 is summarized in table 21. This table reflects financing that already has been established for the system. The ratio of assets less liabilities to expenditures rises to a projected level of 11 percent by June 30, 1979; this provides reasonable protection against a moderate degree of projection error. Table 22 shows the estimated progress of the SMI trust fund during calendar years 1977-79, along with actual experience for 1972-76. The operations of the SMI trust fund were not affected significantly by Public Law 95-216.

TABLE 21.—*Estimated actuarial status of the supplementary medical insurance trust fund, years ending June 30, 1977-79*

[In billions]

Item	Year ending June 30—		
	1977	1978	1979
Assets ¹	\$2.3	\$3.3	\$3.9
Liabilities ²	1.9	2.3	2.7
Assets less liabilities.....	.3	1.0	1.2
Ratio of assets less liabilities to expenditures (per- cent) ³	4	11	11

¹ Assets in the trust fund plus Government contributions to the trust fund which are due and unpaid.

² Benefits and related administrative expenses which are incurred but unpaid.

³ Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

NOTE.—Figures may not add due to rounding.

TABLE 22.—*Operations of the supplementary medical insurance trust fund, calendar years 1972-79*

[Dollar amounts in billions]

Calendar year	Income	Disburse- ments	Net In- crease in fund	Fund at end of period	Fund at begin- ning of year as a percentage of dis- bursements dur- ing year
1972.....	\$2.8	\$2.6	\$0.2	\$0.6	17
1973.....	3.3	2.8	.5	1.1	23
1974.....	4.1	3.7	.4	1.5	30
1975.....	4.7	4.7	— .1	1.4	32
1976.....	6.0	5.6	.4	1.8	26
Estimated future experience:					
1977.....	7.7	6.7	1.0	2.8	27
1978.....	9.3	8.1	1.2	3.9	34
1979.....	10.1	9.5	.6	4.6	41

NOTE.—Figures may not add due to rounding.

Social Security Amendments of 1977: Legislative History and Summary of Provisions

by JOHN SNEE and MARY ROSS*

This article describes the legislative history of the Social Security Amendments of 1977 and contains a summary of the amendments. The major provisions revise the benefit structure so that future replacement rates—initial benefits as a percent of previous earnings—will be relatively stable and revise the tax structure to restore the financial soundness of the program in the short range and into the 21st century. Other significant provisions include: An increased special minimum benefit for long-term workers with future automatic adjustment to prices; a minimum benefit frozen at the December 1978 level (roughly \$121) with automatic adjustment only for those on the rolls; a higher retirement test exempt amount for beneficiaries aged 65 and over; an annual measure of "quarter of coverage" and other changes in annual wage reporting provisions; and authorization for agreements with foreign countries for limited coordination between social security systems.

ON DECEMBER 20, 1977, President Carter signed into law H.R. 9346 (Public Law 95-216), the Social Security Amendments of 1977. The presidential statement issued upon the signing of the bill stated that its provisions "are tremendous achievements and represent the most important social security legislation since the program was established."

The 1977 amendments reaffirm the basic principles and goals of the social security program. The amendments make future benefits and costs much more predictable and restore the financial soundness of the program into the 21st century. The annual old-age, survivors, and disability insurance (OASDI) deficits projected under earlier law, based on the economic and demographic assumptions in the 1977 Reports of the Boards of Trustees, are eliminated beginning in 1980 and the long-range (75-year) deficit is reduced from more than 8 percent to less than 1½ percent of taxable payroll.

The provisions with the most far-reaching impact are:

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1. A revision of the benefit structure—"decoupling"—that stabilizes future replacement rates (initial benefit amount as a percentage of covered earnings). This change is designed to prevent replacement rates from rising as projected under previous law and to assure that social security benefit protection will keep pace with increases in wage levels during a person's working lifetime and with increases in the cost of living, as measured by the Consumer Price Index (CPI) thereafter.

2. An increase from \$180 to \$230 in the highest special benefit for long-term, low-paid workers with future automatic adjustment for CPI increases and a freezing of the initial minimum benefit at December 1978 levels (roughly \$121).

3. An increase in the exempt amount under the retirement test for beneficiaries aged 65 and over to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, \$5,500 in 1981, and \$6,000 in 1982, with automatic adjustment to increases in average wages thereafter, and, in 1982, a reduction from 72 to 70 in the age at which the test no longer applies.

4. A reduction in spouse's and surviving spouse's benefits under the social security program by the amount of a pension based on the spouse's own earnings in noncovered public (Federal, State, or local) government employment.

5. A simplified annual wage-reporting system under which quarters of coverage will be determined on an annual basis, with one quarter of coverage being earned for each \$250 in annual earnings in 1978 (subject to a maximum of four quarters of coverage for a calendar year). After 1978, the \$250 amount will be automatically adjusted for future increases in wages.

6. Authorization for the United States to enter into bilateral (totalization) agreements with foreign countries for limited coordination between social security systems.

7. Increases in the contribution and benefit base and a revised contribution rate schedule. Under the amended program, the projected 1978 and 1979 annual deficits in the cash benefits program are substantially reduced and annual income is expected to exceed expenditures beginning in 1980 and continuing into the next century.

Changes have also been made that affect the Federal-State program of aid to families with dependent children (AFDC): (1) Additional Federal funding of State and local welfare costs for 1978; (2) financial incentives to encourage States to reduce AFDC error rates; (3) a requirement that States request and use Social Security

WITH THE SIGNING of the Social Security Amendments of 1977 into law, the Congress and the President have assured the financial soundness of the social security program for the next 50 years. The amendments reduce the projected trust-fund deficits for 1978 and 1979 and provide for an excess of income over outgo beginning in 1980. Moreover, the long-term deficit will be reduced from 8 percent of taxable payroll to about 1½ percent, a truly significant achievement.

More than half the long-range deficit is solved by the "decoupling" provisions of the amendments. These provisions will prevent replacement rates from rising as had been projected under the old law and also assure that benefit protection will generally rise proportionately with increases in wages during a person's working years and, as before, with increases in the cost of living thereafter.

The new legislation does not call for any additional social security taxes before 1979; the wage-base and tax-rate increases in 1978 were scheduled under the old law. In 1979 a worker earning \$10,000 a year will pay \$8 more in taxes than under the old law, and a \$20,000-a-year worker will pay \$82.55 more. The tax rates for later years have been increased, and the wage base for 1979 and later will be higher than would have occurred under the old law. Those workers who will pay higher social security contributions because of the wage-base increase will also get higher benefits in the future.

The 1977 amendments reflect continuing concern about such issues as equal treatment of men and women, universal coverage, the relationships between public and private pension programs, and general revenue financing. The amendments extend the reporting date of the statutory Advisory Council on Social Security, establish an independent bipartisan National Commission on Social Security, and call for major studies on universal coverage and elimination of sex discrimination.

The Social Security Administration faces a major task in implementing the new legislation. Once again, the Social Security Administration must meet the challenges of paying benefits promptly and efficiently and of informing workers and beneficiaries of their rights and responsibilities under the new law.

It seems to me that, given the need for additional social security financing, the legislation passed by the Congress and signed by the President is sound and equitable. Most important, it should serve to reassure both beneficiaries and workers by putting to rest the predictions about the imminent bankruptcy of the social security system. All Americans can be assured that the social security system is sound and will remain so.

DON I. WORTMAN
*Acting Commissioner of
Social Security*

Administration data on earnings; and (4) temporary expansion of authority for State demonstration projects designed to encourage projects to find ways to make employment more attractive to assistance recipients.

Background and Legislative History

The enactment of the 1977 amendments was a culmination of an extended period of national debate on alternative ways to restore the financial integrity of the social security program. In 1973, when the Congress last enacted social security benefit and financing legislation, the program was estimated to be soundly financed in the short range and over the long-range future. Since 1973, however, adverse experience led to annual excesses of outgo over income and projections showing a substantial long-range deficit.

Beginning in 1975, annual outgo from the OASDI trust funds exceeded annual income and the deficits were expected to grow in the future. The disability fund was expected to be depleted by early 1979 and the OASI fund in the early 1980's. The projected deficits were caused by higher-than-anticipated rates of inflation, disability incidence, and unemployment.

In 1977, the program was estimated to have a long-range average annual deficit of 8.2 percent of taxable payroll. This long-range deficit was the result of recent and current economic experience, a lower fertility-rate assumption that results in a higher ratio of beneficiaries to workers in the next century than had previously been projected, revised long-range economic assumptions under which replacement rates in the future would have increased significantly, and continued increases in disability incidence rates.

In addition, throughout this period there was growing concern over the equal treatment of men and women under social security, the retirement test, and the lack of mandatory social security coverage of Federal, State, and local government employees. The latter concern was aggravated by threatened withdrawals from coverage by State and local governmental groups, which would have resulted in a further deterioration of the financial status of the program.

Thus, major concerns of the Congress, policy analysts, and the public generally over the past

few years have centered on financing, changes in the provisions for keeping the social security benefit structure up to date with economic changes, equal rights for men and women, the retirement test, coverage, and the disability insurance program.

The first five of these areas were studied in depth by the 1975 Advisory Council on Social Security, which conducted a broad review of the program. (The Council thought that it did not have time to fully study the disability insurance program—an area that has been, and remains, under review within the Carter Administration. The social security subcommittees of both the House Ways and Means Committee and the Senate Finance Committee have indicated that they intend to consider this area further in 1978.)

The major recommendations of the Council, submitted to the Secretary and the Congress in March 1975, included:

- (a) Decoupling the benefit structure, based on wage indexing and designed to assure that initial benefits for future retirees would keep up to date with wages during working years and with prices thereafter;
- (b) offsetting of social security dependent and survivor benefits by the amount of any pension the person earned in noncovered employment (similar to the "dual entitlement" provisions in the law) and elimination of gender-based distinctions in the law;
- (c) universal compulsory coverage under the social security program;
- (d) modifications of the provisions for withholding benefits under the retirement test; and
- (e) additional financing for the OASDI part of the system by shifting scheduled hospital insurance (HI) taxes to OASDI and using general revenues in the HI program to make up for the loss in contribution income in that program.

The Ford Administration took the position in 1975 that further study of decoupling and long-range financing was required.

In January 1976, President Ford—in his State of the Union Message and his Budget Message—outlined his plan to eliminate projected short-range trust-fund deficits and to prevent replacement rates from rising in the future. The major elements of that plan were decoupling, along the lines recommended by the 1975 Advisory Council, and an increase in the tax rate of 0.3 percent each for employees and employers effective 1977. The social security subcommittee of the House Committee on Ways and Means held public hearings in early February at which the Secretary of

Health, Education, and Welfare testified concerning the broad outlines of the proposals.

On June 17, 1976, the Ford Administration's decoupling proposal was submitted to Congress and was introduced by Representative James A. Burke (D., Mass.), chairman of the social security subcommittee of the House Ways and Means Committee. H.R. 14430, the "Social Security Benefit Indexing Act of 1976," would have stabilized social security replacement rates and reduced the projected long-range average deficit roughly by half.

The major features of H.R. 14430 were

—wage indexing of earnings through the second year before the year of entitlement to retirement benefits, disability, or death

—a new benefit formula that would approximate the benefit levels under present law at implementation and stabilize future replacement rates

—a 10-year transitional guarantee that benefits would be no lower at implementation than benefits under the previous law.

Hearings on decoupling were held by the Burke social security subcommittee in June and July at which Administration officials, Members of Congress, and the public testified. The subcommittee held markup sessions on the proposal in early August, but no further action was taken in the 94th Congress.

The subcommittee also held hearings on other social security matters during 1976. The areas considered included compulsory social security coverage for public employees and employees of nonprofit organizations, the disability insurance program, and the Administration's proposal to permit bilateral (totalization) agreements with foreign countries to provide limited coordination of the social security systems of the two countries.

PRESIDENT CARTER'S RECOMMENDATIONS TO CONGRESS

On May 9, 1977, President Carter announced his proposals to stabilize the social security benefit structure, eliminate gender-based distinctions, and reestablish the financial integrity of the system. The proposals were aimed at dealing with both the short- and long-term financing problems while holding down increases in social security tax rates.

Benefit Recommendations

The President's proposals relating to the benefit provisions included the following changes.

Decoupling.—The Administration recommended that the social security benefit structure should be decoupled with future replacement rates stabilized at approximately the levels that were expected to prevail for workers retiring in January 1979. The decoupled benefit structure, like that recommended by the 1975 Social Security Advisory Council and by the Ford Administration in 1976, would be based upon indexing the worker's earnings and the benefit formula to changes in average wages so that benefit protection would rise with wages during working years and with the CPI after retirement, disablement, or death.

Gender-based distinctions.—The Administration recommended a dependency test for all spouse's and surviving spouse's benefits based on a requirement that the spouse's income in the 3 years preceding the worker's retirement, disablement, or death must have been less than the worker's income. A number of other changes were proposed to eliminate remaining gender-based distinctions in the social security law.

Financing Recommendations

The major elements of President Carter's financing recommendations included:

1. Removing the ceiling on earnings subject to the employer tax in 1981, with interim step increases in the ceiling to \$23,400 in 1979 and \$37,500 in 1980.
2. Increasing the contribution and benefit base for employees and the self-employed by \$600 in each of 4 years—1979, 1981, 1983, and 1985—in addition to increases resulting from regular automatic adjustments of the base as wages rise.
3. Provision for "countercyclical" use of general revenues to make up for social security revenue losses attributable to unemployment rates above 6 percent in 1975-78.
4. Shifting to OASDI part of the 1978 and 1981 HI tax-rate increases already scheduled in the law.
5. Advancing to 1985 0.25 percent of the 1.0-percent OASDI tax-rate increase for employer and employee, each, that was scheduled to go into effect in 2011 and advancing the remaining 0.75 percent to 1990.
6. Restoring the OASDI self-employment tax rate to one and one-half times the employee rate.

The Administration's recommendations were designed to eliminate deficits in the near term by the use of countercyclical general revenues and the three-step elimination of the contribution and benefit base for employers. The proposals did

not include any early-year increases in the OASDI tax rates already scheduled in the law but did include tax-rate increases in 1985 and 1990 representing a rescheduling of the 1.0-percent increase for employers and employees, each, in the OASDI rate previously scheduled for 2011.

In addition, the decoupling provision was expected to cut the estimated long-term average deficit in half. The Administration's financing proposals were expected to eliminate near-term annual deficits and to reduce the long-range deficit further to about 2 percent of payroll.

ACTION IN THE HOUSE

On May 10, the social security subcommittee of the House Committee on Ways and Means began hearings on the President's social security proposals with testimony from the Secretary of Health, Education, and Welfare, Joseph A. Califano, Jr. In his testimony, Secretary Califano noted that "the Social Security System has been one of the great successes of American government," and the Administration's proposal will "restore it to its proper place . . . a government program on which all our citizens can rely."

Legislation that embodied the Administration's proposals was submitted to the Congress on July 11, 1977, and introduced, as H.R. 8218, the following day by Representative James A. Burke (D., Mass.), chairman of the social security subcommittee.¹ The subcommittee held public hearings over the following 2 weeks at which Members of Congress, the public, and representatives of interested organizations testified on the provisions in H.R. 8218 and other proposals.

On July 29, the subcommittee met to plan further work on the social security financing and decoupling legislation. (They also ordered reported H.R. 5723, which dealt with the status of certain administrative law judges, and H.R. 8490, which dealt with past social security tax liabilities of certain nonprofit organizations.)

The subcommittee considered taking a "quick fix" approach to the near-term financial deficits

¹ A companion bill, S. 1902, was introduced in the Senate on July 21 by Senator Gaylord Nelson (D., Wisc.), chairman of the social security subcommittee of the Senate Finance Committee.

and deferring action on the long-range financing and decoupling provisions of H.R. 8218 until 1978. The latter provisions were considered by some to be so controversial that it might not be possible to reach agreement in the 1977 session, especially in view of the tight congressional schedule and plans for final adjournment in mid-October.

Representative Al Ullman (D., Ore.), Chairman of the Committee on Ways and Means, outlined a possible proposal to deal with the short-range financing problem by: (1) A tax-rate increase of 0.2 percent each for employers and employees (and a readjustment in the tax rate for the self-employed to one and one-half times the employee rate); (2) an increase in the wage base of \$500 above the automatic increases each year 1978 through 1982; (3) an allocation of funds from the HI trust fund to the OASI and DI trust funds so that all three were maintained at roughly equal reserve ratios in the short term; and (4) a standby general revenue loan guarantee. The subcommittee concluded, however, that enactment of comprehensive legislation was possible in 1977. The "markup" sessions on H.R. 8218 were scheduled for September 12, the earliest available date following the August recess.

The subcommittee began markup sessions on H.R. 8218 as scheduled. Within 2 weeks, the subcommittee reviewed and approved proposals that included elements of both the Administration's proposals in H.R. 8218 and the "Republican Alternative," a comprehensive package proposed by minority members of the social security subcommittee. (Major features of the latter plan included wage-indexed decoupling, with replacement rates about 10 percent lower than anticipated for 1979, an increase in the special minimum benefit with the regular minimum frozen, a gradual increase from 65 to 68 in the age of eligibility for full benefits, elimination of the retirement test, coverage of Federal employees, and financing based on rate increases, with no base increases.)

The subcommittee's recommendations, reported to the full Committee on September 22, included:

1. The Administration's decoupling proposal in H.R. 8218, with the following modifications:

- indexing a worker's earnings and the benefit formula to reflect annual increases in average wage levels up to the second year before eligibility

- (age 62, disability, or death) instead of before retirement (entitlement)

- increasing the delayed retirement credit from 1 percent a year to 3 percent for persons under the new decoupled system

- stabilizing replacement rates at approximately 5 percent below estimated January 1979 benefit levels

- guaranteeing for 10 (rather than 5) years that retirement benefits would not be lower than benefits under present law as of December 1978.

2. An increase in the maximum special benefit for long-term, low-paid workers from \$180 to \$230 to take account of increases in other benefits since 1974 when it was last adjusted, with future automatic adjustments as the CPI increases. The minimum benefit for future beneficiaries was to be frozen as of December 1978 (roughly \$121), just before implementation of decoupling. The minimum was to be adjusted for cost-of-living increases only after the worker dies or becomes eligible for benefits.

3. The dependency test proposal in H.R. 8218 was not adopted; instead, provision was made for a 6-month study of proposals to eliminate dependency as a factor in determining entitlement to spouse's benefits and to guarantee equal treatment of men and women under the social security program. In addition, the minor provisions included in H.R. 8218 to eliminate gender-based differences for men and women were included in the subcommittee bill.

4. Two other proposals affecting the treatment of women under OASDI were adopted: A shortening of the duration-of-marriage requirement for aged divorced spouse's benefits from 20 years to 5, and a provision that marriage or remarriage would not affect dependent's or survivor's benefits. (These proposals had also been included in the "Republican Alternative.")

5. Mandatory coverage, effective in 1980, would be extended to Federal, State, and local government employment and employment by nonprofit organizations. Effective immediately, State and local governments and nonprofit organizations would no longer be able to withdraw from social security coverage.

6. The retirement test exempt amount would be increased to \$4,500 in 1978 and to \$5,000 in 1979 for beneficiaries aged 65 and over.

7. Changes in financing provisions:

- a. Increases in the contribution and benefit base for workers and for employers so that approximately 90 percent of payroll in covered employment would be taxed—\$20,900 in 1979; \$24,400 in 1980; and \$27,900 in 1981, with automatic adjustment thereafter.

- b. In lieu of "countercyclical" general revenues, standby authority for loans from general revenues to the OASDI trust funds whenever the assets of a fund at the end of a year drop below 25 percent of outgo for that year, with automatic repayment of loans when assets in a fund at the end of a year reach 40 percent of that year's outgo from that fund.

- c. A shift of part of the scheduled HI tax rate increases for years after 1977 to OASDI and an adjustment of the tax rates so that the "ultimate"

OASDHI rate for 1990 and after would be 7.45 percent each for employees and employers.

d. Reestablishment of the self-employment OASDI tax rate at one and one-half times the employee rate.

8. Other proposals recommended by the Administration in legislation other than H.R. 8218:

a. Elimination of the monthly measure of retirement for years after the year of retirement.

b. Simplification of the annual reporting provisions by determining quarters of coverage on an annual basis. For 1978, a worker would get a quarter of coverage (up to four in a year) for each \$250 of annual earnings. The \$250 measure would be automatically adjusted to increases in average wages.

c. A limitation on retroactive benefits so that, except where disability-related or unreduced dependents' benefits were payable, monthly benefits would not be paid for months before the month an application is filed if permanently reduced benefits would result.

d. A provision to exclude from coverage the distributive share of income or loss of a partnership received by a limited partner who does not perform any services for the partnership.

The subcommittee recommendations were introduced by Chairman Ullman on September 27, 1977, and referred as H.R. 9346 to the House Ways and Means Committee. The Committee began markup sessions the next day and further considered the legislation in the following week.

The most controversial issues during the markup sessions were mandatory universal coverage, the retirement test, the general-revenue loan guarantee, and the increases in the contribution and benefit base. A major concern the committee faced was the need to make up for the loss of program income in the near term that would result if, as proposed by Representative Joseph Fisher (D., Va.), universal coverage was dropped or deferred to a later year.

H.R. 9346 as amended by the Committee and reported to the House on October 12 reflected the following major changes from the subcommittee bill:

1. Extended mandatory social security coverage to Federal, State, and local employment and employment for nonprofit organizations effective 1982 (instead of 1980) and provided for a study by the Department of Health, Education, and Welfare and the Civil Service Commission to provide recommendations on how best to coordinate the Federal civil service retirement system and the social security program.

2. Increased the retirement test exempt amount to \$4,000 in 1978 and \$4,500 (instead of \$5,000) in 1979 for beneficiaries aged 65-71; and liberalized the test for beneficiaries abroad by providing that benefits would be payable for any month in which

the beneficiary works on less than 9 days in 1978 and 12 in 1979 and later.

3. Increased the contribution and benefit base beginning in 1978 (instead of 1979) to \$19,900 in 1978, \$22,900 in 1979, \$25,900 in 1980, and \$27,900 in 1981, with automatic adjustment to wages thereafter.

4. Modified the OASDI and HI tax-rate schedules to reduce the HI trust fund deficit and to slightly improve the OASDI trust-fund reserve ratios in relation to those under the subcommittee bill.

5. Revised the standby loan authority so that, if triggered, there would be an automatic temporary tax-rate increase of 0.10 percent, each, for employers and employees and of 0.15 percent for the self-employed under certain conditions.

The Committee bill included additional changes that (1) authorized the President to enter into bilateral agreements (known as totalization agreements) with other countries providing for limited coordination of the United States social security system and the systems of other countries; (2) applied the same actuarial reduction to cost-of-living increases for early retirees that applied to their initial monthly benefit;² (3) provided clergymen who previously elected to be exempt from social security coverage an opportunity to revoke their exemption; (4) modified certain State and local coverage provisions as they apply in Mississippi, New Jersey, and Wisconsin; (5) validated erroneous wage reports for certain Illinois policemen and firemen who are not covered under the social security program; (6) provided that increases in the contribution and benefit base would not increase the employer tax liability or benefits under tier II of the railroad retirement system, which supplement the tier-I payments corresponding to basic social security benefits; and (7) tied the maximum amount of pension insured by the Pension Benefit Guaranty Corporation to the social security earnings base as if it were increased automatically, without regard to the ad hoc increases.

Before consideration by the House Committee on Rules, H.R. 9346 as reported by the Ways and Means Committee was referred to the Post Office and Civil Service Committee, which has jurisdiction over the Federal civil service retirement system. On October 13, the latter Committee ordered H.R. 9346 reported with an amendment to substitute a 2-year study to review the feasi-

² These two provisions had previously been recommended by the Administration.

bility and advisability of extending social security coverage to Federal employment for the provision for mandatory coverage of Federal employees.

Since the Committee members had been closely divided on a number of major issues, it was agreed that H.R. 9346 as reported by the Committee should be considered on the House floor under a rule that specified that a limited number of floor amendments would be in order. These amendments were to be financially self-contained, to the extent possible, to assure that floor action would not substantially alter the financial status of the program under the bill as reported by the Committee. (Generally, in the past, social security legislation went to the House floor under a closed rule that allowed for a single motion to recommit and otherwise required that the legislative package be adopted or rejected as a whole.)

On October 18, the Rules Committee agreed to the "modified open" rule for the House floor debate as requested by the Committee on Ways and Means. The rule allowed for the offering of the Post Office and Civil Service Committee amendment and eight other amendments that had been given earlier consent by the Ways and Means Committee, including a substitute for the Post Office and Civil Service Committee amendment.

The House floor debate on H.R. 9346 began on October 26. The following floor amendments were considered and agreed to:

1. Deletion of the provisions that would have (a) extended social security coverage to employees of Federal, State, and local governments and nonprofit organizations and (b) prohibited State and local government groups and employees of nonprofit organizations from "opting out" of the social security program. The resulting revenue loss would be balanced by an additional employee and employer tax-rate increase of 0.1 percent, each, beginning in 1982 and an increase in the wage base to \$29,700 in 1981 (instead of \$27,900 as provided in the Committee bill). This amendment would also require joint studies by the Department of Health, Education, and Welfare, the Department of the Treasury, the Civil Service Commission, and the Office of Management and Budget on the feasibility and desirability of covering Federal, State, and local government employees.

2. An increase in the retirement test exempt amount to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, and \$5,500 in 1981 for beneficiaries aged 65-71. Beginning in 1982, the retirement test would be eliminated for such beneficiaries. An additional tax-rate increase of 0.1 percent, each, in 1982 would be provided to finance the amendment.

3. Creation of an independent bipartisan National

Commission on Social Security composed of nine members—five appointed by the President and two each by the Speaker of the House and the President of the Senate—to make a broad study of the social security and related programs.

The House considered and rejected the following floor amendments: (1) A more gradual increase in the wage base and a larger increase in the tax rate than under the Committee bill; (2) elimination of the standby loan and repayment provisions from the bill; (3) elimination of the minimum benefit, effective in 1979; and (4) a motion to recommit with instructions to report back with amendments reflecting more of the "Republican Alternative" plan, including: Increased tax rates, no wage base increase, coverage of Federal employees in 1982, and deletion of standby loan authority.

Another amendment would have further increased the retirement test exempt amount, provided for a more gradual increase in the wage base, and increased tax rates beginning in 1978. This amendment was withdrawn.

On October 27, by a vote of 275 to 146, the House passed H.R. 9346. The bill was then sent to the Senate and placed on the calendar awaiting Senate Finance Committee action.

ACTION IN THE SENATE

Since social security legislation, like other revenue measures, must originate in the House of Representatives, the Senate Committee on Finance does not usually consider a major social security bill until the bill has been passed by the House, sent to the Senate, and referred to the Committee on Finance. In view of the urgency of this legislation, however, and the high priority placed upon it by the President, preliminary hearings and markup sessions on financing and decoupling were held in the summer and fall of 1977, even though no House-passed social security bill had been referred to the Senate Finance Committee.

In June and July, the Senate Finance Committee's social security subcommittee, chaired by Senator Gaylord Nelson (D., Wisc.), held public hearings on social security financing and decoupling. On June 13, as lead witness for the Administration, Secretary Califano stressed the priority

accorded this legislation and the importance of final passage in 1977. He said that President Carter considered the bill a "most urgent piece of business before the Congress because of the tremendous concern of older Americans about the viability and integrity of the trust funds."

In late July (just before the August recess) and in early September, the Senate Finance Committee met to consider the effects of social security legislation on the Federal budget for fiscal year 1978. The meetings were held in anticipation of final congressional action to be completed by September 15 on the Second Budget Resolution,³ which would be binding upon Congress in terms of social security financing and benefits. These meetings served to bring together the thinking of the subcommittee and alternative approaches of other Finance Committee members.

By the end of September, the Senate Finance Committee made the following tentative decisions:

—decoupling with wage indexing and constant replacement rates at roughly January 1976 levels (about 2½ percent below anticipated January 1979 levels)

—short-range financing relying heavily on increasing the employer wage base to minimize near-term tax-rate increases (the tentative decision was to raise the employer base to \$100,000 in 1979 and to provide for four \$600 increases in the employee base, as in the Administration's proposal)

—long-range financing that would eliminate any remaining deficit in the OASDI program and would not essentially change the financial condition of the HI program

—response to the Supreme Court decisions that found the "one-half support" test for husbands and widowers unconstitutional⁴—in the form of extending the dual entitlement provisions of law then in effect to apply with respect to government pensions based on an individual's own work in noncovered government employment.

There was also growing interest in the 1977

³ Under 1974 legislation relating to congressional budget activities, any legislative proposals not included in the "Second Budget Resolution" would require a specific waiver of the Budget rules or it would be subject to a point of order on the Senate floor—a procedural impediment that could have blocked Senate action on a social security bill in 1977.

⁴ In 1977, in *Califano v. Goldfarb* and related cases, the Supreme Court declared unconstitutional the statutory requirement that a man had to show that he was dependent on his wife for purposes of qualifying for husband's and widower's benefits, although a woman was presumed dependent on her husband for purposes of wife's and widow's benefits.

enactment of certain AFDC amendments on the part of some Finance Committee members and concern in other quarters that action in this area might preempt consideration of other welfare legislation in the near future. Agreement was finally reached between the Administration and Senator Long (D., La.), Chairman of the Finance Committee, and Senator Moynihan (D., N.Y.), Chairman of the Finance Committee's Subcommittee on Public Assistance, on four AFDC amendments included in the Finance Committee bill: (1) Fiscal relief to States and localities for welfare costs in fiscal year 1978; (2) financial incentives for States to reduce errors; (3) requirement that States request and use Social Security Administration and State employment security agency wage-record information where needed for AFDC program administration; and (4) temporary expansion of authority for States to conduct demonstration projects intended to make employment more attractive to public assistance recipients.

A fifth AFDC amendment, which would have revised the earned-income "disregard" for AFDC recipients, was also included in the Committee bill.

As Senate Finance Committee markup sessions continued, increasing concern was also shown about the tentative decision to increase the employer base to \$100,000 in 1979. The Committee seemed about equally divided on the issue and considered alternatives that would have provided for increasing the base for employers by the same amount as the employee base. (When the final vote was taken on November 1, such a proposal failed on a 9-9 vote, and a proposal to increase the employer base to \$50,000 in 1979 and \$75,000 in 1985, with no automatic adjustments until the employee base caught up, was adopted.) In mid-October, however, the Committee was reluctant to report a major financing provision on which the members were so evenly divided. They continued to meet in the hope of developing a compromise on which there would be widespread agreement.

Meanwhile, although H.R. 9346 had not yet been passed by the House, the Finance Committee had tentatively agreed that, if the House did act and if final Committee decisions were reached, the Committee amendments would be attached to H.R. 5322, a minor tariff bill that had originated in the House of Representatives, the substance of

which had already been enacted in other legislation. H.R. 5322 was a convenient vehicle for putting the Senate Finance Committee proposals before the Senate promptly. When the House passed H.R. 9346 on October 27, the bill was not referred to the Senate Finance Committee. It was held at the desk and placed on the Senate calendar since the Committee expected to report H.R. 5322 promptly, which it did on November 1.

The OASDI provisions of H.R. 5322 that differed from the House-passed bill included the following provisions:

1. The decoupling provisions would be similar to the House bill but they would call for earnings replacement rates approximately 2½ percent lower than projected 1979 levels.
2. The employer wage base would be increased to \$50,000 in 1979 and to \$75,000 in 1985; it would not increase automatically until the employee base reached that level under automatic adjustment provisions. (Nonprofit State and local government employers would be reimbursed from general revenues for 50 percent of the increased employer social security tax resulting from the difference between the employer and employee wage bases.) The bill also provided for a reduction in employer tax liabilities where workers with earnings in excess of the employer base were concurrently employed by certain affiliated corporations.
3. The OASDIHI tax rates would be increased beginning in 1979 and would reach an ultimate level, by the year 2011, of 7.8 percent for employers and employees, each.
4. The retirement test exempt amount would be increased to \$4,500 in 1978 and to \$6,000 in 1979. After 1979, the \$6,000 amount would increase as wage levels rise.
5. The worker's delayed retirement credit would be added to the widow's or widower's benefit.
6. The benefits of spouses and surviving spouses would be offset by the amount of any pension or annuity based on the spouse's earnings in noncovered Federal, State, or local government employment.

The Finance Committee bill also included provisions that were not in the House-passed bill but had been reported by the Ways and Means Committee earlier in 1977: (a) A modification in liabilities for back taxes for certain nonprofit employers and (b) the conversion of a number of "administrative law judge" positions from temporary to permanent status.

When H.R. 9346 as passed by the House came up for debate on the Senate floor on November 2-4, it was first amended by substituting the provisions of the Finance Committee bill (H.R. 5322)

for the House-passed provisions. It was then subject to further floor amendment. Although the Senate Finance Committee had obtained a waiver of the Budget Act requirements with respect to the Committee proposals, it was necessary for individual Senators to obtain waivers for specific floor amendments, a process that prolonged the Senate floor debate. Ultimately, parliamentary procedures were worked out and numerous amendments, some unrelated to the Social Security Act, were agreed to on the Senate floor.

Changes affecting the social security program included:

1. Lowering from 72 to 70 the age at which the retirement test no longer applies effective for taxable years ending after 1981 (a substitute for an amendment that would have eliminated the test at age 65, as in the House bill).
2. Freezing the minimum benefit at an amount equal to the minimum PIA in effect under existing law in December 1978. Benefits based on the minimum would be kept up to date with rising prices only after entitlement to benefits.
3. Automatically increasing benefits on a semiannual basis in times of rapid inflation.
4. Providing disability benefits for the blind, regardless of ability to work, based on six quarters of coverage and a more favorable computation procedure.
5. Eliminating the workmen's compensation offset for social security disability benefits.
6. Reducing the employer tax liability of State and local government and nonprofit employers to 90 percent of the tax liability under the law as amended by the bill (but not less than the 1979 liability). The Senate amendment would also authorize appropriations from general revenues to make up for the loss of social security tax revenues occurring as a result of enactment of the amendment.

During the Senate floor debate, an amendment, offered by Senator Curtis (R., Neb.), to provide for equal increases in the wage base for employer and employee⁵—the issue on which the Finance Committee had been equally divided—was defeated by a vote of 47 to 46, with Vice President Mondale casting his first tie-breaking vote.

H.R. 9346 was passed by the Senate on November 4, by a vote of 42 to 25. The way was thus cleared for a House-Senate conference to resolve the differences between the House and Senate versions of the bill.

⁵The amendments would also have increased social security tax rates and produced a long-range actuarial balance of 0.04 percent of payroll.

HOUSE-SENATE CONFERENCE COMMITTEE

Senate conferees were appointed immediately upon passage of the bill in the Senate on November 4, but appointment of House conferees was delayed. On November 3, a motion for unanimous consent (necessary because the Senate had not yet passed the bill) to appoint House conferees was blocked. Since the House did not meet again for legislative business before the Thanksgiving recess, the House conferees were not appointed until November 30—and, then, only after the House rejected a motion to instruct the conferees to insist on the House retirement test provisions.

The conference committee, chaired by Senator Long, convened on December 1 and began deliberations on H.R. 9346. The conferees encountered difficulties in three areas—financing, AFDC, and a Senate floor amendment that would have provided an income-tax credit for certain college tuition costs and related expenses.

Areas of disagreement on financing included unequal employee and employer contribution and benefit bases, the use of general revenues, the HI program, and the long-range actuarial balance. Of these areas, HI financing proved to be the most difficult on which to reach agreement. Floor action in the House and Senate would have adversely affected the financial status of the HI program in relation to the treatment accorded by either the Finance Committee or the Ways and Means Committee. Moreover, some House conferees felt strongly that the financial status of the HI program should not be worsened as a result of the legislation. A compromise was ultimately adopted under which the long-range deficit in the HI program was reduced from 1.16 percent of taxable payroll to 1.01 percent.

The conferees were also unable to reach quick agreement on the public assistance amendments. With certain modifications the four AFDC amendments that the Administration had indicated it could accept were finally adopted, and the amendment relating to the AFDC earned-income disregard was not accepted. A modification reducing the amount of fiscal relief that the Senate bill would have provided was agreed to, with the understanding that additional fiscal relief might be provided under H.R. 7200—the welfare bill still pending in the Senate. This bill also includes the earned-income disregard provision.

On December 9, as the congressional session was drawing to a close, the social security conference stalled. The Senate conferees insisted on including the tuition tax-credit provision that had been added to the bill on the Senate floor; the House conferees strongly opposed its inclusion. The following week, the Senate conferees receded from their position, and the conference committee reported the bill on December 14.

H.R. 9346, as agreed to by the conferees, was passed by the Senate on December 15, 1977 (the final day of the first session of the 95th Congress) by a vote of 56 to 12 and later the same day by the House of Representatives by a vote of 189 to 163. On December 20, H.R. 9346 was signed by President Carter and became Public Law 95-216, the Social Security Amendments of 1977. The specific provisions of the final legislation are described below.

Summary of Major Provisions

MAJOR CASH BENEFIT PROVISIONS

Decoupling

Under the previous law, projections of future benefits for current workers were highly dependent on projections of future rates of increases in wages and prices and, as a result, replacement rates could increase more rapidly or more slowly than average wages in general. Under current economic projections, future replacement rates—benefits as a percentage of preretirement earnings—were expected to rise substantially faster than average wages in the future.

In order to stabilize replacement rates in the future, at levels 5 percent below the levels projected for 1979 under the earlier law, basic changes are made in the way the worker's average earnings and social security benefit amounts will be figured. The 5-percent reduction is designed to offset the unintended overadjustment of benefits since the adoption of automatic cost-of-living increases in 1972. A comparison of projected replacement rates for hypothetical workers aged 62 at different relative earnings levels under the old law and under the new law is shown in table 1.

As under the old law, benefits would be kept

TABLE 1.—Replacement rates¹ for hypothetical low, average, and maximum earnings,² 1980–2050, of a worker retiring at age 62 under old and new law

Year	Replacement rates (percent)					
	Low earners		Average earners		Maximum earners	
	Old law	New law	Old law	New law	Old law	New law
1980.....	56	55	44	43	34	27
1990.....	60	58	48	43	35	25
2000.....	75	58	52	43	39	27
2010.....	84	58	57	43	42	29
2020.....	91	58	60	43	44	29
2030.....	96	58	63	43	46	29
2040.....	101	58	66	43	47	29
2050.....	106	58	68	43	48	29

¹ Represents annual unreduced benefits as percent of previous year earnings.

² The 1976 earnings levels of \$4,600 for low earners, \$9,200 for average earners, and \$15,300 for maximum earners are adjusted annually according to the intermediate assumptions used in the 1977 Trustees Report.

³ Based on the 5-year transitional provision.

up to date with increases in prices after a worker becomes eligible for benefits. The new method applies to those who reach age 62, become eligible for disability benefits, or die in 1979 or later.

Wage indexing of earnings.—A worker's earnings will be updated (indexed) to the period immediately before the year the worker reaches age 62, becomes disabled, or dies and will reflect the increases in average wages that have occurred since the earnings were paid. The worker's earnings will be indexed by multiplying his actual earnings by the ratio of average wages in the second year before he reaches age 62, becomes disabled, or dies to the average wages in the year being updated. An example of wage indexing and benefit computations under the new law is shown in table 2.

Earnings after age 60 or disablement will be counted at actual dollar value—that is, unindexed—and substituted for earlier years of indexed earnings if they increase the worker's average indexed monthly earnings (AIME) and his benefit.

Computation period.—No change has been made in the computation period. After the worker's earnings have been indexed, they will be averaged for the years after 1950 (or after age 21, if later) up to the year he reaches age 62, becomes disabled, or dies, whichever occurs first, with the 5 years of lowest indexed earnings or no earnings excluded. (Pre-1951 earnings could be used only under "prior-law" computation provisions.)

Benefit formula and maximum family benefit formula.—The law establishes a benefit formula

for determining a worker's primary insurance amount (PIA) on the basis of his indexed earnings. The benefit formula reproduces roughly the same relative weighting as the old formula but the new formula will result in benefit levels that are approximately 5 percent lower than those that were expected to prevail under the old law for new retirees in January 1979.

The benefit formula for those reaching age 62 in 1979 is: 90 percent of the first \$180 of AIME, plus 32 percent of AIME over \$180 and through \$1,085, plus 15 percent of AIME over \$1,085. The AIME dollar amounts in the formula will

TABLE 2.—Wage indexing and benefit computation for hypothetical earnings, 1951–78, of a worker retiring at age 62 in 1979¹

Year	Annual earnings	Average annual covered wages ²	Indexing factor	Wage-indexed earnings
1951.....	\$3,000	\$2,769	3.532	10,596
1952.....	2,900	2,945	3.321	9,631
1953.....	3,600	3,089	3.166	11,398
1954.....	3,600	3,226	3.031	10,912
1955.....	4,200	3,350	2.919	12,260
1956.....	4,200	3,540	2.762	11,600
1957.....	4,200	3,747	2.610	10,962
1958.....	4,000	3,852	2.539	10,156
1959.....	2,500	3,980	2.457	6,142
1960.....	4,800	4,148	2.358	11,318
1961.....	2,800	4,283	2.283	6,392
1962.....	4,800	4,461	2.192	10,522
1963.....	4,800	4,572	2.139	10,267
1964.....	4,800	4,712	2.075	9,960
1965.....	6,000	4,787	2.043	12,258
1966.....	.....	4,997	1.957	.....
1967.....	2,000	5,311	1.841	3,682
1968.....	7,000	5,683	1.721	12,047
1969.....	5,500	5,977	1.626	8,998
1970.....	7,200	6,288	1.555	11,196
1971.....	7,400	6,670	1.466	10,848
1972.....	.....	7,250	1.349	.....
1973.....	5,820	7,590	1.290	7,121
1974.....	6,000	8,031	1.218	7,398
1975.....	7,500	8,631	1.133	8,498
1976.....	8,000	9,226	1.060	8,480
1977.....	7,200	9,779	1.000	7,200
1978.....	8,100	.....	1.000	8,100

A. WAGE INDEXING: Shown below are annual earnings, average covered wages, the indexing factor (1977 average annual wages divided by average annual wage in each year), and the wage-indexed earnings (annual earnings times indexing factor).

B. BENEFIT COMPUTATION: The worker's primary insurance amount (PIA) is then computed on the basis of his average indexed monthly earnings (AIME) as follows:

Total indexed earnings in highest 23 years.....	\$231,636.00
AIME (total earnings divided by number of months: 23×12, or 276).....	\$839
PIA under 1979 formula:	90% × \$180 = \$162.00
	32% × (\$839 - \$180) = \$210.88
Age 62 PIA (rounded)	\$372.90

¹ The following benefit formula is to be applied to AIME: 90% of the first \$180 of AIME, plus 32% of the next \$905 of AIME, plus 15% of AIME above \$1,085.

² Average taxable wages in the first quarter of each year multiplied by 4. Data preliminary; subject to change when final data are published in the *Federal Register* later this year.

be adjusted automatically in the future as average wage levels rise to maintain the relative weighting in the formula and thereby maintain relatively constant replacement rates at different relative earnings levels. The formula for relating maximum family benefits to the PIA roughly maintains the relationship between the PIA and maximum family benefits that existed under the old law. This benefit formula will also be adjusted in the future as average wage levels rise.

Transition.—Wage indexing, the new benefit formula, and the 5-percent reduction in replacement rate levels would result in higher benefits for some workers and lower benefits for others under the new computation procedures than under the law in effect at the time of implementation. To protect workers nearing retirement when decoupling is implemented, an individual who reaches age 62 after 1978 and before 1984 is guaranteed a retirement benefit no lower than the amount he would have received under the law as of December 1978. For purposes of this provision, the December 1978 benefit table will be frozen, but the worker's retirement benefit would be subject to all cost-of-living benefit increases beginning with age 62. The guarantee does not apply to disability and survivor benefits.

Effective date.—The new benefit structure is effective for those who reach age 62, become eligible for disability benefits, or die in 1979 or later. (The old law remains in effect for workers eligible before 1979.)

Delayed Retirement Credit

The delayed retirement credit is increased to 3 percent a year— $\frac{1}{4}$ of 1 percent a month—for workers reaching age 62 after 1978. (The credit of 1 percent a year under the old law— $\frac{1}{12}$ of 1 percent a month—will continue to apply to workers who reached age 62 before 1979.) In addition, those who received reduced benefits will be able to get the delayed retirement credit if they have non-payment months after reaching age 65. Since workers reaching age 62 in 1979 will not reach age 65 until 1982, this provision will have relatively little effect before 1983. The delayed retirement credit that a worker earns will also be payable to the surviving spouse effective for months after May 1978.

Special Minimum and Minimum Benefits

Special benefit for long-term, low-paid workers.—Under the new law, the special benefit for long-term, low-paid workers is increased, effective January 1979, to take account of increases in benefits since March 1974 and will be automatically adjusted to cost-of-living increases in the future. The highest possible special benefit will be increased from \$180 to \$230 in 1979. Specifically, the new law provides that the special benefit will be equal to \$11.50 (instead of \$9.00) times the number of years above 10 and up to 30 in which a worker has earnings equal to or greater than one-fourth of the contribution and benefit base that would be effective without regard to these amendments.

Minimum benefit.—The minimum benefit for future beneficiaries is frozen at an amount equal to the minimum benefit in effect in December 1978 (estimated to be about \$121). Benefits based on the minimum will be kept up to date with increases in the CPI beginning with the year the person becomes entitled to benefits. For this purpose, a person would be considered to become entitled to benefits in the year in which he or she first actually received a cash benefit or, if earlier, reached age 65.

Retirement Test

Annual exempt amount.—The new law provides increases in the annual exempt amount for beneficiaries aged 65 and over to a level of \$6,000 for 1982, with automatic adjustment to average wage increases thereafter. No change was made in the exempt amount for workers under age 65. The annual exempt amounts are shown below.

Monthly measure.—The monthly measure in the

Year	Exempt amount for beneficiaries—	
	Under age 65	Aged 65 or older
1977.....	\$3,000	\$3,000
1978.....	3,240	4,000
1979.....	3,480	4,500
1980.....	3,720	5,000
1981.....	3,960	5,500
1982.....	4,300	6,000

¹ Specified in law.

² Estimated under automatic adjustment provisions.

retirement test is eliminated for years after the initial year of retirement. (Under the monthly measure, a beneficiary who did not earn over the monthly exemption—\$250 in 1977—or render substantial services in self-employment in a month received a benefit for that month regardless of the level of his annual earnings.)

Applicable age.—The age at which the retirement test no longer applies is lowered from 72 to 70, effective after 1981.

OTHER BENEFIT PROVISIONS

Offset for Spouses With Other Government Pensions

Spouse's and surviving spouse's benefits under the social security program will be reduced by the amount of any government (Federal, State, or local) pension payable to the spouse based on his or her own earnings in noncovered employment. This provision is somewhat analogous to the provisions of present law under which a person's social security benefit as a dependent or survivor is generally reduced dollar-for-dollar by the amount of any social security benefit he or she earned as a worker in covered employment. The provision is effective for spouse's benefits based on applications filed in or after December 1977.

Under a transitional "exemption" clause, the offset provision does not apply to those who (a) become eligible for a pension from noncovered government employment before December 1982 and (b) at the time of application for social security benefits, could have qualified for spouse's or surviving spouse's benefits if the law as in effect and administered in January 1977 had remained in effect. Thus, this exception has the effect of continuing to apply a "one-half support" test to certain men. The law also provides that if the above exception is found invalid, the pension offset would be fully effective immediately.

Remarriage of Widows and Widowers

Effective with respect to benefits for months after December 1978, remarriage of a surviving spouse after age 60 will not reduce the amount

of widow's or widower's benefits. Under the old law, benefits for a widow or widower who remarried after age 60 were generally reduced to the larger of 50 percent of the deceased spouse's PIA or 50 percent of the new spouse's PIA.

Duration-of-Marriage Requirement

Effective for months after December 1978, the duration-of-marriage requirement for entitlement to benefits as an older divorced wife or surviving divorced wife has been lowered from 20 years to 10 years.

Actuarially Reduced Benefits

Under the automatic cost-of-living benefit increase provisions in the old law, persons with actuarially reduced benefits generally received automatic benefit increases that slightly exceeded the percentage increase in the cost of living. This situation occurred because the percentage increase was related not to the actual benefit amount but to the PIA. The new law modifies the cost-of-living increase mechanism so that beneficiaries receiving reduced benefits would receive benefit increases equal to the percentage increase in the CPI. The provision is effective for benefit increases after December 1977.

Retroactive Social Security Benefits

Under the old law, an application for actuarially reduced benefits, like any other application for social security benefits, was a valid application for any benefits payable for up to 12 months before the month in which the application was filed. Effective for applications filed on or after January 1, 1978, the new law eliminates retroactive benefits where permanently reduced benefits would result (except for disability-related benefits or when unreduced dependent's benefits are involved).

Disability Benefits for the Blind

A disabled blind person will not be considered to have engaged in substantial gainful activity

that would result in termination of benefits (or suspension for those aged 55 or over) unless his earnings exceed an amount equal to the monthly earnings measure of retirement (1/12 of the annual retirement test exempt amount) for those aged 65 or older—\$333.33 in 1978, higher in subsequent years. (Effective for months after December 1977.)

Earlier Delivery of Benefit Checks

The new law requires advance delivery of social security and supplementary security income checks when the usual delivery date for these checks falls on a weekend or legal holiday. When this occurs, checks will be mailed earlier, even if the mailing must take place in the preceding month. Any overpayment that occurs as a direct result of the earlier delivery will be waived and will not be subject to recovery. This provision is effective for checks regularly scheduled for delivery on or after the 30th day after enactment of the law.

Temporary Administrative Law Judges

Certain administrative law judges were appointed several years ago on a temporary basis to hear SSI claims. These judges are to be given permanent status under the Administrative Procedure Act. (Effective upon enactment.)

COVERAGE PROVISIONS

Annual Reporting

The annual wage-reporting provisions have been simplified so that quarterly data will no longer be needed to determine quarters of coverage. The 1977 amendments change the quarter-of-coverage measure so that, effective in 1978, a worker will receive one quarter of coverage (up to a total of four) for each \$250 of annual earnings paid in (instead of for each calendar quarter in which he is paid at least \$50). The \$250 measure will be automatically increased in future years to take account of increases in average wages. These provisions are effective January 1, 1978.

Totalization Agreements

The new law authorizes the President to enter into bilateral agreements with foreign countries to provide for limited coordination of social security systems. In general, the agreements eliminate dual coverage of, and contributions for, the same work under the social security systems of two countries and permit the payment of "totalized" benefits based on the proportion of the worker's earnings credits under each system. (The totalized benefit paid by each country will almost invariably be smaller than the benefit payable without recourse to totalization.) An agreement would not go into effect if rejected by either House within 90 days after being submitted to Congress.

Limited Partnership Income

Effective for taxable years beginning after December 31, 1977, the distributive share of income or loss from the trade or business of a partnership received by a limited partner who performs no service for the partnership are excluded from social security coverage. Under the old law, a partner's share of partnership income was includable in his net earnings from self-employment irrespective of the nature of his membership in the partnership.

Employer Taxes on Tips

Employers are required to pay social security taxes on tips deemed to be wages under the Federal minimum wage law, effective January 1, 1978. Under that law an employer can pay an employee up to 50 percent less than the Federal minimum wage by counting as wages the tips received by the employee. Previously, employers were not liable for employer social security taxes on any tips.

Clergymen

A clergyman who filed an application for exemption from social security coverage in the past will be given an opportunity to revoke his exemption and obtain social security coverage. The

revocation must be filed before the due date of the clergyman's Federal income tax return for his first taxable year beginning after the date of enactment (December 20, 1977). Thereafter, as under the old law, a clergyman's exemption from coverage is irrevocable.

Certain Illinois Policemen and Firemen

Effective upon enactment of the law, Illinois will be permitted, by modification of its coverage agreement with the Secretary, to provide social security coverage at any time before 1979 for certain policemen and firemen who were in positions covered under the Illinois Municipal Retirement Fund. Any wages erroneously reported in the past for such policemen and firemen will be validated.

Policemen and Firemen in Mississippi

Mississippi has been added to the list of States in the law that may provide social security coverage for policemen and firemen who are in positions covered under a State or local retirement system (effective upon enactment).

State and Local Employees in New Jersey

Effective upon enactment of the law, New Jersey has been added to the list of States in the law that may make social security coverage available to State and local employees under the divided-retirement-system procedure. Under this procedure, coverage may be extended only to those present employees in positions under a retirement system who desire it, with all future employees covered automatically.

Employees Under Wisconsin Retirement System

A special provision in the social security law that applies to State and local employees in positions under the Wisconsin Retirement Fund will apply to any successor retirement system of that fund, effective upon enactment of the law. Under the special provision, as amended, no employee

referendum approving extension of coverage is needed in order to extend coverage to groups who are newly covered under a successor system to the fund.

Nonprofit Organizations

The provisions that apply to nonprofit organizations were designed to correct some unintended effects of P.L. 94-563, which was enacted in 1976 to deal with problems of nonprofit organizations that had been paying social security taxes without having filed a valid waiver certificate. These provisions were effective upon enactment of the law.

FINANCING PROVISIONS

The financing provisions of the new law, taken together with the benefit provisions, will restore the short-range soundness of the program, will gradually build the OASDI trust funds up to acceptable contingency-reserve levels, and will adequately finance the program into the next century. Full discussion of the financial status of the program after the 1977 amendments is contained in the article that follows.

Contribution and Benefit Base

The amendments provide for ad hoc increases in the contribution and benefit base—the maximum amount of a worker's annual earnings subject to social security taxes and creditable for benefits—in 1979, 1980, and 1981. The base will rise to \$22,900 in 1979, \$25,900 in 1980, and \$29,700 in 1981 for employees and employers. After 1981, the base will be automatically adjusted to keep up with average wage levels, as under the old law. Contribution and benefit bases for 1978-82 under the old and new law are shown in table 3.

In 1981 and after, about 91 percent of all payroll in covered employment will be taxable for social security purposes and nearly 95 percent of all covered workers will have their full earnings credited for social security benefit purposes. In comparison, the \$3,000 base provided for in the original social security law taxed nearly 93

TABLE 3.—Contribution and benefit base under old and new law

Calendar year	Old law ¹	New law ²
1977.....	\$16,500	\$16,500
1978.....	17,700	17,700
1979.....	18,900	22,900
1980.....	20,400	25,900
1981.....	21,900	29,700
1982.....	23,400	31,800

¹ Estimated under automatic-adjustment provisions for 1979-82.

² Stated in law for 1979-81. Estimated under automatic adjustment provisions for 1982.

percent of all payroll in covered employment in 1938 and the annual earnings of about 97 percent of all covered workers were taxable and creditable.

Tax Liability of Affiliated Corporations

Where an employee is concurrently employed by two or more affiliated corporations and is paid through a common paymaster (of the corporations), the new law amends the Internal Revenue Code to provide that for purposes of determining employer social security and unemployment insurance tax liability, such related corporations will be treated as if they were a single employer. The provision will be effective with respect to wages paid after December 31, 1978.

Railroad Retirement System and Pension Benefit Guaranty Corporation

The base for tier II of the Railroad Retirement Act for both benefit and tax purposes will be the same as it would have been under the automatic provisions of the old law and will not be affected by the ad hoc increases in the contribution and benefit base scheduled under P.L. 95-216. Similarly, the pension insurance administered by the Pension Benefit Guaranty Corporation will also be unaffected by the ad hoc wage-base increases. The maximum insured pension amount will increase as it would have under the old law.

Tax-Rate Schedule

The 1977 amendments also provide a new tax-rate schedule for OASDHI for employees, em-

ployers, and the self-employed, including necessary allocation of larger proportions of OASDI income to the disability insurance trust fund. Tax rates under the old and the new laws are shown in table 4.

Under the new schedule, the total OASDHI tax rate both for employees and for employers will increase gradually, beginning 1979, from the 1978 level of 6.05 percent to 7.65 percent in 1990 and thereafter. Under the old law, the rates would have increased to 7.45 percent in 2011 and thereafter.

For the self-employed the OASDHI tax rate is scheduled to rise from its 1978 level of 8.1 percent to 10.75 percent in 1990 and thereafter. Under the old law, the rate would have risen to 8.5 percent in 1986 and thereafter. The larger increase in the self-employment tax rate results from the decision to restore the self-employment rate for OASDI to its original level of one and one-half times the employee rate; the self-employment rate had been below that level in recent years.

Portions of already scheduled increases in the HI tax rate are shifted under the amendments to the OASDI program. With the increased income that will result from the increases in the contribution and benefit bases, however, the HI program is in a somewhat better financial position than it would have been under the old law.

TABLE 4.—Tax-rate schedule under old and new law

Year	[Percent of covered earnings]					
	Total		OASDI		HI	
	Old law	New law	Old law	New law	Old law	New law
Employees and employers, each						
1977.....	5.85	5.85	4.95	4.95	0.90	0.90
1978.....	6.05	6.05	4.95	5.05	1.10	1.00
1979-80.....	6.05	6.13	4.95	5.08	1.10	1.05
1981.....	6.20	6.65	4.95	5.35	1.35	1.30
1982-84.....	6.20	6.70	4.95	5.40	1.35	1.30
1985.....	6.30	7.05	4.95	5.70	1.35	1.35
1986-89.....	6.45	7.15	4.95	5.70	1.50	1.45
1990-2010.....	6.45	7.65	4.95	6.20	1.50	1.45
2011 and after.....	7.45	7.65	5.95	6.20	1.50	1.45
Self-employed						
1977.....	7.90	7.90	7.00	7.00	0.90	0.90
1978.....	8.10	8.10	7.00	7.10	1.10	1.00
1979-80.....	8.10	8.10	7.00	7.05	1.10	1.05
1981.....	8.35	9.20	7.00	8.00	1.35	1.30
1982-84.....	8.35	9.35	7.00	8.05	1.35	1.30
1985.....	8.35	9.90	7.00	8.55	1.35	1.35
1986-89.....	8.50	10.00	7.00	8.55	1.50	1.45
1990-2010.....	8.50	10.75	7.00	9.30	1.50	1.45
2011 and after.....	8.50	10.75	7.00	9.30	1.50	1.45

COUNCILS, COMMISSIONS, AND STUDIES

The amendments change the reporting date of the next Advisory Council on Social Security and provide for several studies of different aspects of the social security program.

Advisory Council on Social Security

The reporting date of the next statutory Advisory Council on Social Security is extended by 9 months—to October 1, 1979.

National Commission on Social Security

A bipartisan nine-member National Commission on Social Security, with the chairman and four other members appointed by the President and four members appointed by Congress, will make a broad-scale, comprehensive study of the social security program, including Medicare. The study will include the fiscal status of the trust funds, coverage, adequacy of benefits, possible inequities, and financing alternatives. The Commission is also to study alternatives to the current programs, integration of the social security system with private retirement programs, and the question of need for development of a special price index for the elderly. The Commission is required to submit its final report 2 years after a majority of the members are appointed.

Study of Mandatory Coverage

The Secretary of Health, Education, and Welfare is required to undertake a study and report on mandatory coverage of employees of Federal, State, and local governments and of nonprofit organizations. The Secretary is required to consult with the Office of Management and Budget, the Civil Service Commission, and the Department of the Treasury, and they are directed to cooperate in the study.

The study is to include the feasibility and desirability of mandatory coverage of these employees, alternative methods of coverage and alternatives to coverage, and an analysis, under each alternative, of the structural changes required in retirement systems, as well as the impact on retirement system benefits and contributions for affected individuals. The report, to be made

to the President and the Congress, is due by December 20, 1979—within 2 years after enactment of the law.

Study of Proposals To Eliminate Dependency and Sex Discrimination

The Secretary of Health, Education, and Welfare, in consultation with the Justice Department Task Force on Sex Discrimination, is required to study and report on proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the social security program and on proposals to bring about equal treatment of men and women under the program. The report based on the study is due by June 20, 1978—within 6 months of enactment of the law.

OTHER SOCIAL SECURITY ACT AMENDMENTS

Reimbursement for Erroneous State Supplemental Payments

The Secretary of Health, Education, and Welfare is directed to reimburse the States for certain erroneous State-administered State supplementary SSI payments paid during 1974. Reimbursement will be limited to such payments that a Department of Health, Education, and Welfare audit finds to be incorrect as a result of the States' good-faith reliance on erroneous or incomplete information furnished to the States by the Department or incorrect SSI payments made by the Department.

Fiscal Relief for State and Local Welfare Costs

The amendments provide additional Federal funding of \$187 million to States and political subdivisions as fiscal relief from the costs of welfare. Each State will receive a share of that total on the basis of a two-part formula. Half the fiscal relief funds will be distributed in proportion to each State's share of the total AFDC expenditures for December 1976 and half under the general revenue-sharing formula.

Where local units of government are responsible for meeting part of the costs of the AFDC pro-

gram, at least 90 percent of the fiscal relief payments will be passed through to the respective political subdivisions. The payment of the additional Federal funds is to be made as soon as administratively feasible.

Financial Incentives for Quality Control

Another provision establishes a program of fiscal incentives, beginning January 1, 1978, as part of the AFDC quality control program. The provision is intended to encourage States to reduce their dollar error rates with respect to eligibility for, and amounts of, assistance paid under the approved State plan. This incentive is designed to provide motivation to the States for expanding their quality control efforts and improving program administration.

Under this amendment, States with dollar error rates of less than 4 percent would be compensated as follows:

<i>Percent of error rate</i>	<i>Percent of Federal savings retained by State</i>
3.5 but less than 4 -----	10
3 but less than 3.5 -----	20
2.5 but less than 3 -----	30
2 but less than 2.5 -----	40
Less than 2 -----	50

Access to Wage Information

Previously, the Social Security Administration was authorized to furnish social security information concerning AFDC recipients to States and political subdivisions for purposes of administering the AFDC program if they requested it. Beginning October 1, 1979, State and local welfare agencies and State employment security agencies must request earnings information. The Secretary of Health, Education, and Welfare is authorized to establish necessary safeguards against improper disclosure of the available wage information. The information is to be obtained by a search of wage records and will identify the fact and amount of earnings and the identity of the employer for individuals receiving AFDC at the time the earnings were received.

State Demonstration Projects

The law provides for a temporary broadening of the authority for State demonstration projects, particularly with regard to projects for employment of AFDC recipients (whose participation is voluntary). The provision is intended to encourage demonstration projects designed to find ways to make employment more attractive for public assistance recipients.

The States could request waiver of any or all of the following requirements of the AFDC program: (1) Statewideness; (2) administration by a single State agency; (3) the earned income disregard; and (4) the work incentive program. To establish a project, States would be required to make application to the Secretary, give public notice of the application for the project, and request public comment on it. Under this provision, which expires at the end of fiscal year 1980, the Secretary is given 60 days to disapprove a State's application for a project, during which time the Secretary must also provide for public notice and comment. If the Secretary does not deny the application within the 60-day period, the State is authorized to implement a project without HEW approval.

Costs of the projects are eligible for the same Federal matching as other AFDC costs, with the limitation that the amount matchable with respect to any participant in the project cannot exceed the amount otherwise payable to him under AFDC. Therefore, no increased Federal expenditures are expected to be incurred from this provision. The States must provide project participants with the prevailing hourly wage for similar work in the locality.

Medicare Coverage of 'Wheelchair' Devices

The definition of durable medical equipment under the Medicare supplementary medical insurance program is expanded effective upon enactment of the law, to include a power-operated vehicle that may be appropriately used as a wheelchair. The vehicle must be medically necessary and meet safety requirements prescribed by the Secretary.

Financial Status of Social Security Program After the Social Security Amendments of 1977

by A. HAEWORTH ROBERTSON*

The Social Security Amendments of 1977 resulted in substantial improvement in the current and projected financial condition of the OASDI program. This article reviews the causes of the recent operating deficits, describes the effects of the amendments that most influence the program's financial status, and gives projections of income and expenditures under the new law. The revised benefit formula eliminates the "over-indexing" expected to occur under the old provisions and results in stable earnings-replacement ratios under practically all future economic conditions. About one-half of the long-range actuarial deficit was resolved by this step alone. Increases in the contribution and benefit base, along with tax-rate reallocations and increases, prevent the imminent depletion of the OASI and DI trust funds. Increased income due to the higher wage bases is partially offset in later years, however, by greater benefit payments based on the increases in the coverage of total earnings. Overall, under the new law the OASDI program is projected to be financed adequately for about 50 years but significant operating deficits are expected after that. The financial condition of the hospital insurance program was substantially unchanged by the amendments, however, and the HI trust fund is expected to be exhausted in 1988.

THE SOCIAL SECURITY AMENDMENTS of 1977 (P.L. 95-216), passed by Congress on December 15, 1977, and signed by the President on December 20, 1977, made important revisions in the social security program. These amendments are generally considered to be the most significant social security legislation since 1972—possibly since 1950.

This article reviews the financial condition of the program before the adoption of the new legislation and comments briefly on the revisions with the greatest impact on the financial condition of the program. Projected expenditures and income under the revised law are presented—for the old-

age, survivors, and disability insurance programs and for the Medicare programs.

FINANCIAL CONDITION BEFORE AMENDMENTS

As background against which to consider the new legislation, it may be helpful to review briefly the nature and seriousness of the program's financial problems before the adoption of the new legislation.

There are four social security trust funds—one each for the old-age and survivors insurance (OASI) program, the disability insurance (DI) program, the hospital insurance (HI) program, and the supplementary medical insurance (SMI) program. These trust funds are managed by a Board of Trustees consisting of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare. Once each year the Trustees issue a report on the financial condition of the various portions of the social security program.

Consider first the annual report of the old-age and survivors insurance and the disability insurance programs combined (OASDI). Beginning with the report issued in 1975 it was forecast that OASDI expenditures would exceed income each and every year in the future with the amount of the deficits growing steadily in the future. This has in fact been the case. Outgo exceeded income by \$1.5 billion in calendar year 1975 and \$3.2 billion in 1976. The 1977 OASDI Trustees Report estimated that outgo would exceed income by \$5.6 billion in 1977, \$6.9 billion in 1978, \$7.9 billion in 1979, and so on. This report estimated that, on the average, total outgo over the next 75 years would be about 75 percent greater than scheduled tax income. These were very significant financial problems.

What are the reasons that the OASDI portion of the program has been paying more in benefits than it has been collecting in income since 1975?

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This situation is primarily a result of the following factors:

Higher than anticipated inflation in recent years, triggering corresponding automatic benefit increases (and the concurrent lack of growth in real wage levels).

Unemployment rates that have been greater than expected, resulting in decreased tax income.

Higher than expected disability insurance expenditures.

For the future, the long-range deficits projected in recent OASDI Trustees Reports were due in part to the factors above but resulted primarily from the following two additional causes:

First, a technical flaw in the 1972 automatic adjustment provisions of the Social Security Act would have caused future benefit levels to grow more rapidly than wages, if average wages and the Consumer Price Index behave in the future as now forecast. This flaw, if unremedied, would have meant eventually that a majority of beneficiaries would be receiving more in retirement benefits than they earned while they were working, with consequently higher program costs.

Second, after the turn of the century the people who were born during the post-World War II "baby boom" will be retiring while the people born during the current "baby bust" will be of working age. As a result, there will be only about 2 workers for each beneficiary, compared with the current ratio of about 3 to 1. Since OASDI is financed on a "current cost" basis—that is, contributions of current workers are used to pay the benefits of current beneficiaries—expenditures as a percentage of taxable payroll will be much higher after the turn of the century than at present.

With respect to the HI program, recent Trustees Reports estimated that outgo would begin to exceed income in the mid-1980's with the situation steadily worsening thereafter. Reasons for the projected financial problems of the HI program were the same as for the OASDI program (except that the technical flaw in the 1972 automatic adjustment provisions had no effect). In addition, inflation in hospital costs has been greater than inflation in other costs of living in the recent past, a phenomenon not expected to be improved significantly in the near future unless controlling legislation is enacted.

Long-range cost projections are not published by the Trustees for the SMI program. (Projections are made for only 3 years.) If long-range projections were made, however, they would indi-

cate a steadily increasing cost in the future for many of the same reasons the HI costs are projected to increase.

AMENDMENTS MOST SIGNIFICANTLY AFFECTING FINANCIAL CONDITION

The changes brought about by the Social Security Amendments of 1977 that will have the most significant impact on the financial condition of the program are (1) a revised (or "decoupled") benefit formula, (2) an increase in the contribution and benefit base, and (3) an increase in tax rates.

Revised Benefit Formula

The OASDI benefit formula was revised (or "decoupled") so that future generations of workers would not receive progressively higher levels of retirement benefits, in relation to their pre-retirement earnings, than today's generation receives. This revision is generally viewed as a correction of the 1972 automatic adjustment provisions so that they will work as intended when they were adopted in 1972. To achieve this goal, however, a different method of computing average wages and a different benefit formula have been adopted. The changes may therefore be more far-reaching than is generally recognized. A description of the revised method of computing benefits is given in the preceding article.

This change in the method of determining benefits has no effect on persons already receiving benefits. It will not affect anyone becoming eligible for benefits before January 1979. A transitional provision included in the amendments is intended to ensure that benefit levels for retiring workers will not change abruptly from the old law to the new, but a minor technical amendment may be necessary to provide a smoother transition.

Table 1 indicates the approximate effect the revised method of determining benefits will have on future generations of retiring workers. It shows the dollar amount of benefits, as well as the replacement ratios (the ratio of the first year's benefit to the worker's earnings in his last year before retirement) for different generations retiring at age 65.

The figures for 1978 and later are based upon

TABLE 1.—Old-age, survivors, and disability insurance:¹ Projected benefits and replacement ratios after the 1977 amendments for persons retiring at age 65 in future years

Calendar year of retirement	Earnings in previous year ²			Annual benefit amount for workers with earnings ³			Replacement ratio (percent) for workers with earnings ⁴		
	Low	Average	Maximum	Low	Average	Maximum	Low	Average	Maximum
1979.....	\$5,721	\$10,572	\$17,700	\$3,142	\$4,932	\$6,165	59.6	46.7	34.8
1980.....	5,682	11,396	22,900	3,375	5,215	6,699	59.4	46.6	29.3
1981.....	6,085	12,205	25,900	3,635	5,740	7,251	59.7	47.0	28.0
1982.....	6,475	12,988	29,700	3,485	5,438	6,809	53.8	41.9	22.9
1983.....	6,863	13,766	31,800	3,607	5,643	7,257	52.6	41.0	22.8
1984.....	7,258	14,557	33,900	3,841	6,010	7,798	52.9	41.3	23.0
1985.....	7,675	15,394	36,000	4,099	6,409	8,390	53.4	41.6	23.3
1990.....	10,150	20,359	47,700	5,451	8,519	11,509	53.7	41.8	24.1
1995.....	13,424	26,925	63,000	7,198	11,243	15,605	53.6	41.8	24.8
2000.....	17,753	35,609	83,400	9,519	14,870	21,427	53.6	41.8	25.7

¹ Replacement ratios for disabled or deceased workers with similar earnings histories would be slightly higher in most cases.

² Low earnings are defined as \$4,600 in 1976, with preceding and succeeding values following the trend of the average first-quarter earnings in covered employment. "Average earnings" are four times the average first-quarter earnings for all workers in covered employment (\$9,266 in 1976). "Maximum earnings" are the amount of the contribution and benefit base in each year. In each case it is assumed that the worker has had an unbroken pattern of earnings at the relative level indicated.

³ Based on the assumption that the worker retires at age 65 in January of the specified year. Annual amounts shown include the effect of the benefit increase for the following June.

⁴ Replacement ratios calculated as the ratio of (a) the annual benefit amount in the first year of retirement to (b) the worker's earnings in his last

year before retirement.

⁵ Based on benefit formula in effect before the 1977 amendments. The new benefit computation provisions become effective for persons reaching age 62 in 1979 or later (or becoming eligible for disability or survivor benefits in 1979 or later). Benefits for retirees aged 65 will be computed under the old formula until 1982.

⁶ Determined under the 5-year transitional provisions. Retirees in 1979-83 will receive the greater of the amount determined under the amendments or what they would have received under the old benefit formula in effect for January 1979. In this case the "frozen law guarantee" amount is projected to be greater.

⁷ Replacement ratios for workers with maximum earnings will eventually reach a stable, ultimate value of 28 percent. An explanation of the causes of this pattern, appears below.

the economic assumptions used for the 1977 Trustees Reports. Benefits and replacement ratios are shown for three types of workers: Those with low, average, and "maximum" wage histories. It has been assumed in each case that the worker had an unbroken pattern of earnings throughout his working lifetime at the relative level indicated.

It is recognized that there are few "typical" employees with steady wage histories in the specified categories and that benefits are not based on a worker's earnings in his last year before retirement but rather on his average earnings during most of his participation in the program. Replacement ratios are defined here in relation to earnings in the last year before retirement only for convenience of presentation.

The new benefit formula was designed by Congress in such a way that, eventually, replacement ratios for retiring workers at age 62 will be about 5 percent lower (relatively) than they would have been in 1979 under the old benefit formula. Congress also chose to index the earnings histories of workers (by the trend of average earnings in covered employment) up to the time the worker is initially eligible for benefits rather than to the time of actual retirement. Although this procedure is simpler administratively, it leads to replacement ratios for retirees at age 65 that are about 5 percent lower than replacement ratios at age 62 (before the actuarial reduction for early retirement). Thus, as table 1 illustrates, for suc-

cessive generations of workers retiring at age 65 with earnings below the maximum wage base, replacement ratios will stabilize within about 10 years at levels approximately 10 percent lower (relatively) than the levels in 1979.

The future pattern of replacement ratios for the "maximum" wage earner is somewhat different from that of persons earning less than the maximum amount of wages subject to taxes (the "contribution and benefit base"). Specifically, as the ad hoc increases in the contribution and benefit base occur in 1979-81 (as described below), the replacement ratio will decrease rapidly. After 1981, it will rise slowly as benefit levels for the "maximum" worker begin to reflect the higher covered earnings that result from the base increases. After the turn of the century, benefit levels will be based on a lifetime of earnings at the higher level and the replacement ratio will stabilize at its ultimate value.

A second effect of the new benefit computation procedure will be the significant reduction in the variation of replacement ratios depending on the age of the worker. Before the amendment, young disabled workers or the survivors of young deceased workers received a much greater benefit than their older counterparts with similar recent earnings histories despite the fact that the older worker had participated in the program for a longer period. The new law eliminates most of this unintentional inequity. Benefits for "early

retirement" between ages 62 and 65 will continue to be actuarially reduced. The revised method of computing benefits eliminated about one-half of the deficit that had been projected over the next 75 years.

Increase in Contribution and Benefit Base

Under the old law, the maximum amount of earnings used for computing benefits and assessing taxes (\$16,500 in 1977) would have increased automatically in the future in accordance with the increase in average wages in covered employment. The new law provides for supplemental increases in the wage base from 1979 to 1981. Specifically, the wage base under the old law was estimated to have become \$21,900 in 1981, but it will be \$29,700 under the new law.

One effect of this change will be that the taxable payroll will be higher. Under the old law, approximately 85 percent of the total payroll in covered employment was subject to tax. Under the new law, after 1980 about 91 percent of the total payroll will be subject to tax. The increased taxable payroll will bring additional income into the system. Furthermore, since benefits are based on the average amount of wages on which taxes are paid, in the future some persons will receive larger benefits because larger amounts of wages have been credited to them. Raising the contribution and benefit base thus increases income to the trust funds each year in the future and increases benefit payments by relatively small amounts during the next few years and increasingly larger amounts in the later years.

Approximately 15 percent of the workers covered by the program will pay more in taxes and receive larger benefits as a result of the change in the contribution and benefit base. During the next 75 years, on the average, approximately one-half of the increased tax income resulting from the higher wage base will be required to pay the additional costs due to higher benefits. The net effect will be to reduce the future deficits by approximately 0.5 percent of taxable payroll. Table 2 compares the contribution and benefit base amounts specified in the new law for 1978-81 with the estimated amounts that would have occurred automatically under the old law.

TABLE 2.—Old-age, survivors, disability, and hospital insurance: Contribution and benefit base before and after the 1977 amendments

Calendar year	Before amendments ¹	After amendments ²
1977	\$16,500	\$16,500
1978	17,700	17,700
1979	18,900	22,900
1980	20,400	25,900
1981	21,900	29,700
1982	23,400	-----

¹ For 1979 and later (determined by the automatic provisions of the old law), estimates based on the intermediate set of assumptions shown in the 1977 Annual Reports of the Board of Trustees of the Social Security Trust Funds.

² Base for 1979-81 specified in the new law. Beginning in 1982, the amounts will be determined automatically under the new law on the basis of the annual increase in average earnings in covered employment.

Increase in Tax Rates

The third major change made by the new law is the increase in the social security tax rates in the future. For both employees and employers the total tax rate under old-age, survivors, disability, and hospital insurance was 5.85 percent in 1977. Under the old law it was already scheduled to increase to 6.05 percent in 1978 and to rise in steps thereafter to 6.45 percent in 1986 and to 7.45 percent in the year 2011. The new law does not raise tax rates above those already scheduled until 1979, at which time the total tax rate is increased to 6.13 percent of taxable payroll; thereafter it is to be further increased, reaching 7.15 percent in 1986 and 7.65 percent in 1990. Tax rates for the self-employed increase gradually, from 7.90 percent in 1977 to 10.75 percent in 1990.

Table 3 lists the tax rates scheduled under the new law as well as those applicable under the old law. Although the amendments did not raise the total tax rate scheduled for 1978, the allocation of the taxes among OASI, DI, and HI was changed in order to prevent the depletion of the DI trust fund in late 1978 or early 1979.

These tax-rate and wage-base increases have frequently been described as causing a tripling of social security taxes during the next 10 years. The following statements help put these tax increases in proper perspective.

Under the old law, tax income during the 10-year period 1978-87 was projected to be \$1,646 billion. Under the new law, tax income during this period is projected to be \$1,873 billion—an increase of \$227 billion, or about 14 percent.

A person who has earnings equal to or greater than the taxable wage base in each year will have his

TABLE 3.—Old-age, survivors, and disability insurance and hospital insurance: Tax rates (percent of taxable payroll) before and after the 1977 amendments

Calendar year	Employees and employers, each						Self-employed					
	Before amendments			After amendments			Before amendments			After amendments		
	Total	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI
1977.....	5.85	4.95	0.90	5.85	4.95	0.90	7.90	7.00	0.90	7.90	7.00	0.90
1978.....	6.05	4.95	1.10	6.05	5.05	1.00	8.10	7.00	1.10	8.10	7.10	1.00
1979-80.....	6.05	4.95	1.10	6.13	5.08	1.05	8.10	7.00	1.10	8.10	7.05	1.05
1981.....	6.30	4.95	1.35	6.65	5.35	1.30	8.35	7.00	1.35	9.30	8.00	1.30
1982-84.....	6.30	4.95	1.35	6.70	5.40	1.30	8.35	7.00	1.35	9.35	8.05	1.30
1985.....	6.30	4.95	1.35	7.05	5.70	1.35	8.35	7.00	1.35	9.90	8.55	1.35
1986-89.....	6.45	4.95	1.50	7.15	5.70	1.45	8.50	7.00	1.50	10.00	8.55	1.45
1990-2010.....	6.45	4.95	1.50	7.65	6.20	1.45	8.50	7.00	1.50	10.75	9.30	1.45
2011 and after.....	7.45	5.95	1.50	7.65	6.20	1.45	8.50	7.00	1.50	10.75	9.30	1.45

taxes increased from \$965.25 to \$3,045.90 between 1977 and 1987, but his taxes would have risen in any case to \$2,012.40 under the old law. The number of persons affected by such a large increase is less than 10 percent of those covered by the social security program.

Taxes have been increased—and they have been increased substantially—but not by as much as has sometimes been implied.

PROJECTED INCOME AND OUTGO UNDER NEW LAW

Projections of income and outgo for the social security trust funds have been prepared, and the results of these projections are presented briefly below. The assumptions and methodology used in making the projections are the same as those set forth in the 1977 OASDI, HI, and SMI annual Trustees Reports, and reference should be made to these reports for a more thorough description of the subject of financing. The technical note at the end of this article summarizes some of the more important assumptions on which the estimates and projections shown here are based.

OASDI Income and Outgo, 1977-87

Table 4 shows the projected income and outgo under the new law for the combined OASI and DI trust funds for the period 1977-87. The data reflect both tax income and interest earnings on the trust funds. It may be noted that outgo is projected to continue to exceed income until 1980, when the effect of the increases in the tax rates and the contribution and benefit base will

cause the combined funds to begin to grow. Not until 1981, however, will the funds begin to grow in relation to the level of outgo.

OASDI Income and Outgo, 1977-2051

To facilitate the presentation of long-range cost estimates, expenditures are expressed here in terms of a percentage of the total income subject to the social security tax—that is, as a percentage of taxable payroll. This procedure avoids the difficulties created by the changing value of the dollar and allows a direct comparison to be made between projected expenditures and the tax rates scheduled in the law.

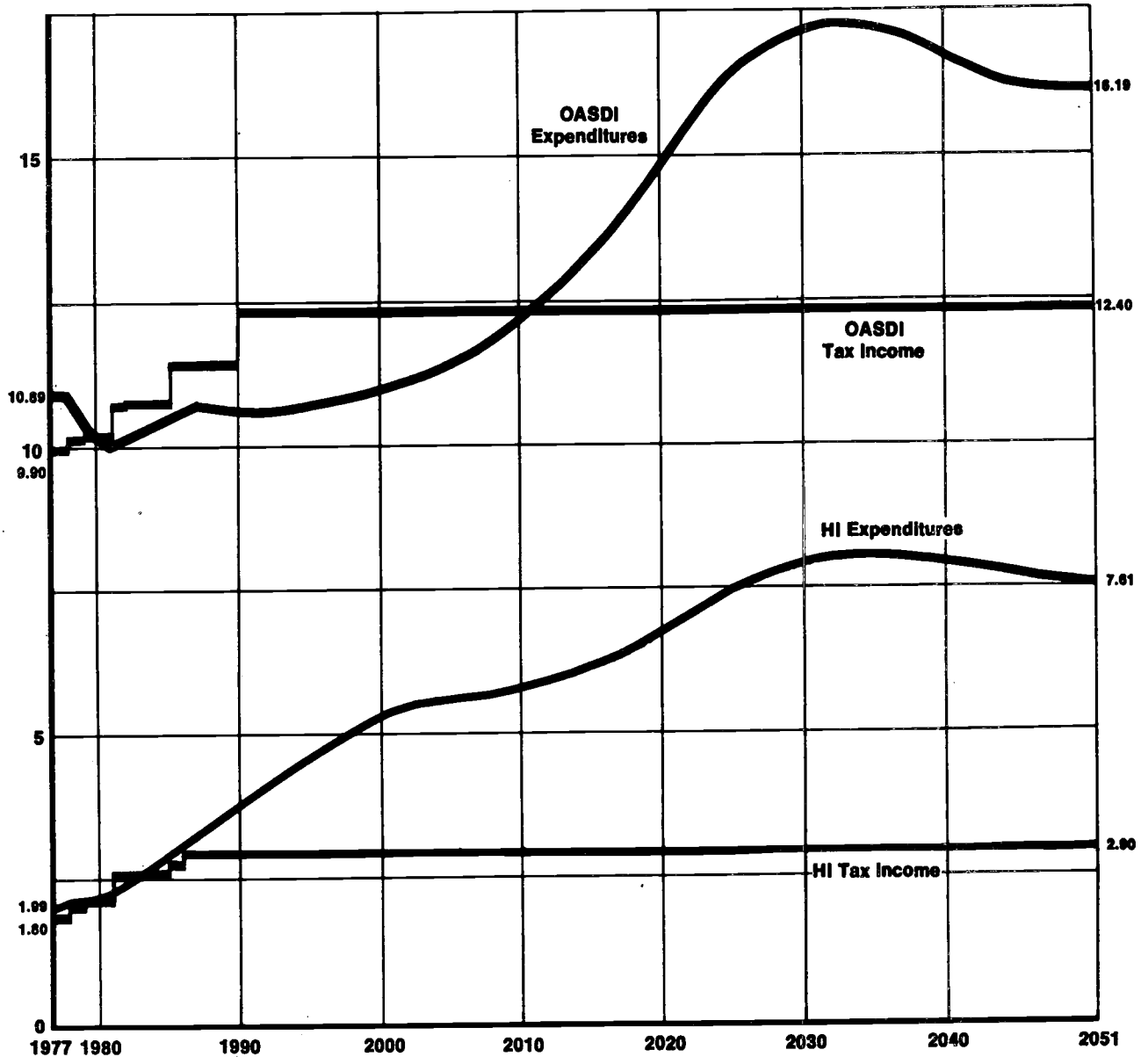
Chart 1 shows the projected expenditures and tax income under the new law, separately for the OASDI and the HI programs, for 1977-2051. Table 5 gives a numerical comparison of the

TABLE 4.—Old-age, survivors, and disability insurance: Projected income, expenditures, and level of combined OASI and DI trust funds after the 1977 amendments

Calendar year	Income	Expenditures	Difference	Funds at beginning of year	
				Total amount	As percent of outgo during year
1977.....	\$82.1	\$87.6	-\$5.5	\$41.1	47
1978.....	92.4	97.2	-4.8	35.6	37
1979.....	106.5	106.9	-.4	20.8	29
1980.....	119.1	117.1	2.0	30.4	26
1981.....	137.1	127.4	9.7	32.4	25
1982.....	150.2	138.3	11.9	42.0	30
1983.....	161.3	149.2	12.1	53.9	36
1984.....	172.9	161.2	11.7	66.0	41
1985.....	194.2	174.0	20.2	77.7	45
1986.....	209.0	187.6	21.4	97.9	52
1987.....	223.7	202.0	21.7	119.3	59

CHART 1.—Projected expenditures and legislated tax income under new law, calendar years 1977–2051

Percent of
Taxable Payroll



average expenditures and tax income and the resulting differences for various periods. For convenience of presentation, the trust fund balances are ignored, since they normally represent only a small fraction of total expenditures over the years. The 75-year period shown is the approximate “maximum remaining lifetime” of current social security participants.

For the OASDI program the tax income rises in steps in accordance with the scheduled in-

creases shown in table 3. The expenditures rise in dollar amounts but decline as a percentage of taxable payroll during the period 1979–81, reflecting the gradual expansion of the taxable payroll from 85 percent of total payroll in covered employment to 91 percent. Expenditures then begin going up slowly (primarily because of a projected rise in DI expenditures) until early in the 21st century when they show rapid growth as the children of the post-World War II “baby

TABLE 5.—Old-age, survivors, and disability insurance and hospital insurance: Projected average tax income and expenditures as percent of taxable payroll¹

Period	OASDI			HI ²		
	Tax income	Expenditures	Difference	Tax income	Expenditures	Difference
1977-2001.....	11.57	10.60	0.97	2.70	3.60	-0.90
2002-2026.....	12.40	13.46	-1.06	2.90	6.48	-3.58
2027-2051.....	12.40	16.69	-4.29	2.90	7.53	-4.63
1977-2051.....	12.12	13.58	-1.46	2.83	5.87	-3.04

¹ See table 6, footnote 1.

² Based on assumption that, after the year 2000, unit-cost increases for medical care would be equal to average wage increases in covered employment.

boom” (which ended in the 1960’s) begin reaching retirement age. When all the children of that period have reached retirement age, expenditures decline slightly and then level off.

As indicated by chart 1, tax income for OASDI is projected to exceed expenditures from 1980 until 2010. At this time, the combined OASI and DI trust funds are projected to be equal to about 3 years’ outgo. Thereafter, outgo exceeds tax income, requiring that the interest earnings on the trust fund, and later the principal of the trust fund itself, be used in order to make benefit payments. By the year 2025, the trust funds are projected to have fallen to the level of 1 year’s outgo, thus requiring an increase in taxes at that time to preserve the trust funds’ ability to act as contingency reserves.

The mention of specific years and specific trust fund amounts many years in the future may give a false impression of the precision with which long-range projections can be made. The following general statements more fairly portray the long-range financing picture for the OASDI program after the Social Security Amendments of 1977:

—Total income and total outgo are projected to be in approximate balance during the next 50 years (1977-2026).

—During the succeeding 25 years (2027-51), average expenditures are projected to be 16.69 percent of taxable payroll, or 35 percent greater than the scheduled tax income of 12.40 percent of taxable payroll.

—The projected annual expenditures are frequently averaged over the 75-year projection period and compared with the average scheduled tax income, with the difference of these two amounts referred to as the average “actuarial balance” or “actuarial deficit.” The actuarial deficit after the 1977 amendments is 1.46 percent of taxable payroll. It was 8.20 percent before the amendments. Although this

reduction reflects a substantial improvement in the financial condition of the OASDI program, it should be noted that a substantial projected deficit of 4.29 percent of taxable payroll in the last third of the 75-year period remains unresolved. Casual references to the 1.46-percent actuarial deficit may tend to obscure the timing and magnitude of the remaining problem.

HI Income and Outgo, 1977-2051

Chart 1 and table 5 display projected expenditures and tax income under the new law for the HI program for the next 75 years. The annual Trustees Reports for this program normally show such projections for only a 25-year period. Since the demographic changes that cause the OASDI program costs to accelerate rapidly after the turn of the century will also cause the HI program costs to increase rapidly, estimates are presented here for the full 75-year projection period used for OASDI. To make these extended projections, it was assumed that after the year 2000, medical care unit-cost increases would be equal to average wage increases in covered employment.

For the HI program the tax income rises in steps in accordance with the scheduled increases shown in table 3. Projected expenditures as a percentage of taxable payroll go up steadily throughout the remainder of the century. During 1979-81 the increases are less pronounced than they would have been before the 1977 amendments because of the ad hoc wage base increases that produce a greater taxable payroll without affecting HI benefits. Expenditures continue rising in the 21st century, as the children of the post-World War II baby boom begin reaching retirement age and become eligible for HI benefits.

The amendment that raised the contribution and benefit base has the effect of increasing tax income to the HI trust fund. The law also lowered that portion of the total tax rate allocated to the HI trust fund, so that on balance the fund is projected to be in approximately the same financial condition under the new law as under the old law.

As indicated by the 1977 HI Trustees Report, as well as the data in chart 1, this financial condition is not good. Outgo is projected to exceed total income (including interest on the fund) beginning in the mid-1980’s, and it is estimated that the trust fund will be depleted by about 1988.

The Administration has proposed to Congress that certain hospital-cost containment provisions be adopted in order to help hold down future increases in the cost of hospital care. If these provisions are adopted and if they operate as expected, the financial health of the HI program would be improved somewhat. If the provisions are not adopted, however, it seems likely that tax increases in addition to those called for by the Social Security Amendments of 1977 will be required in the mid-1980's to maintain the HI trust fund.

The possibility of enactment of legislation for hospital-cost containment and the possibility that the HI program will be absorbed by some form of national health insurance program within the next decade have tended to limit the emphasis on and the interest in the program's imminent financing problems. Of course, the HI financing problems would still require correction under a national health system.

It is the announced intention of the Administration to propose a national health insurance program to Congress in the near future. Consistent with this intention was the reorganization on March 14, 1977, of the Department of Health, Education, and Welfare that created the Health Care Financing Administration and abolished the Social and Rehabilitation Service. As a part of this reorganization, the administration of the Medicare program (formerly under the Social Security Administration) and of the Medicaid program (formerly part of the Social and Rehabilitation Service) was placed under the authority of the Health Care Financing Administration.

SMI Income and Outgo, 1977-2051

The SMI portion of Medicare is an optional program available to most persons aged 65 and over and to certain disabled persons. About 95 percent of those eligible for this program have elected to participate.

The cost of SMI benefits was met originally by premiums paid by the participants and approximately matching payments from general revenues. At the present time, however, about 70 percent of the total cost is being paid from general revenues because, by law, premiums have not been permitted to rise as rapidly as total costs have risen. The percentage of the total cost paid

by general revenues can be expected to increase in the future.

The SMI Trustees Report normally shows projected expenditures for only a 3-year period. The same demographic changes in the population that cause the projected OASDI and HI program costs to accelerate rapidly after the turn of the century will also cause the SMI program costs to increase rapidly. For purposes of illustration here, expenditures have therefore been projected for the next 75 years. The SMI program is not financed by payroll taxes, but its cost for comparative purposes has been computed as a percentage of the payroll that is taxable for HI purposes. On this basis, the expenditures under SMI are projected to increase from the equivalent of 0.85 percent of taxable payroll in 1977 to 2.52 percent in 2050. The progression of expenditures during this period is shown in table 6.

Income and Outgo under OASDI and HI Combined, 1977-2051

Table 6 displays expenditures and tax income and the difference between the two for the OASI, DI, and HI programs (separately and combined) for selected years. The data indicate that total expenditures for these three programs will rise from 12.88 percent of taxable payroll in 1977 to 16.24 percent in the year 2000 and 23.84 percent in 2025, remaining at approximately that level thereafter. The total tax rate, on the other hand, is scheduled to increase from 11.70 percent of taxable payroll in 1977 to only 15.30 percent by 1990, remaining level thereafter. Projected expenditures are higher than scheduled tax income beginning in the mid-1990's, with the deficit growing larger with time. During 1977-2001, average OASDHI expenditures are projected to be 14.20 percent of taxable payroll, almost exactly equal to the scheduled average tax income of 14.27 percent. From 2002 to 2051, average expenditures are projected to be 22.09 percent of taxable payroll, or about 44 percent greater than the scheduled average tax income of 15.30 percent.

SUMMARY AND CONCLUSIONS

The Social Security Amendments of 1977 made important revisions in the social security pro-

TABLE 6.—Old-age, survivors, and disability insurance and hospital and supplementary medical insurance: Projected tax income and expenditures as percent of taxable payroll¹

Year	OASDHI, total			OASI			DI			HI			SMI expenditures ²
	Tax income	Expenditures	Difference ³	Tax income	Expenditures	Difference ³	Tax income	Expenditures	Difference ³	Tax income	Expenditures	Difference ³	
1977.....	11.70	12.88	-1.18	8.75	9.39	-0.64	1.15	1.50	-0.35	1.80	1.99	-0.19	0.85
1980.....	12.26	12.33	-.07	8.66	8.63	.03	1.50	1.48	.02	2.10	2.22	-.12	.96
1985.....	14.10	13.43	.67	9.50	8.79	.71	1.90	1.66	.24	2.70	2.98	-.28	1.28
1990.....	15.30	14.34	.96	10.20	8.71	1.49	2.20	1.67	.53	2.90	3.76	-.86	1.64
1995.....	15.50	15.27	.23	10.20	8.68	1.52	2.20	2.07	.13	2.90	4.52	-1.62	1.90
2000.....	15.70	16.24	-.54	10.20	8.63	1.57	2.20	2.34	-.14	2.90	5.27	-2.37	2.00
2025.....	15.70	23.84	-8.14	10.20	13.49	-3.29	2.20	2.91	-.71	2.90	47.44	-4.54	2.63
2030.....	15.50	23.78	-8.48	10.20	13.35	-3.15	2.20	2.82	-.62	2.90	47.61	-4.71	2.53

¹ The effective taxable payroll is slightly different for OASDI and HI because of the tax treatment of self-employed persons, but the comparisons are not materially affected. In 1977, taxable payroll represented about 85 percent of total earnings in covered employment; in 1981 and later the corresponding proportion will be approximately 91 percent.

² Negative figures indicate deficits.

³ Expenditures are approximately equal to total income from premiums

and general revenue for SMI; that program is not financed by payroll taxes but its cost is shown here for comparison as a percentage of payroll taxable for HI purposes. Data after 1977 based on unpublished estimates.

⁴ Based on unpublished estimates. For this comparison, it was assumed that, after the year 2000, unit-cost increases for medical care would be equal to average wage increases in covered employment.

gram. The full effect of these amendments will not be realized until many years in the future.

The most significant amendment was the change in the method of determining OASDI benefits so that future generations would not receive progressively higher levels of benefits in relation to their preretirement earnings than today's generation receives. This action (frequently referred to as "decoupling") corrected the "overindexing" possible under the old law under certain economic conditions and eliminated about one-half of the future deficits.

Another far-reaching change was the expansion of the contribution and benefit base so that benefits payable to many persons in future generations will be related to a larger proportion of the person's earnings. In the future, about 91 percent of the aggregate earnings of persons covered by the social security program will be taken into account in determining benefits, instead of the present 85 percent. This change may appear small, but it is in fact a significant expansion of income security protection for the 15 percent of the population in the higher earnings brackets.

The other important action taken was the raising of taxes to place the OASDI program in closer financial balance, at least for the near term. Future tax income will be greater both because of the increased tax rates and because of the increased wage base to which the tax rates will be applied. Pending these increases, not effective until 1979, portions of the OASI and HI tax rates have been reallocated to the DI trust fund to prevent its depletion in late 1978

or early 1979. The most significant aspect of these amendments is not the particular methods employed to increase the tax income, since these methods may well be revised before they take effect. It is instead the expression of congressional intent to do what may be necessary to sustain the social security program and thus provide much needed assurance to the public.

The Social Security Amendments of 1977 did not attempt to solve all the financial problems of the program. In particular, they postponed the resolution of two potential problem areas:

—For OASDI, the long-range financing problem beginning in the year 2011 when the children of the post-World War II baby boom begin to reach age 65.

—For HI, the short-range financing problem caused by the continuing rapid escalation of hospital costs and the long-range problem caused by the aging of the post-World War II generation.

Technical Note

The data shown here are based on assumptions and methodology explained in detail in the 1977 Annual Reports of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund, Disability Insurance Trust Fund, Hospital Insurance Trust Fund, and Supplementary Medical Insurance Trust Fund. Because the future cannot be predicted with certainty, long-range projections are made on the basis of alternative assumptions to determine how the social security

program would operate under future conditions that might reasonably be expected to develop.

The figures used here are based on the alternative II or "intermediate" assumptions from the 1977 Trustees Reports, including assumptions that

—mortality rates will decline overall by about 18 percent from 1976 to 2050

—the fertility rate will continue to decrease (from its estimated level in 1976 of 1.74 children per woman), going down to 1.65 children per woman in 1980; then the rate is assumed to increase gradually, reaching 2.1 by 2005 and remaining level thereafter

—disability incidence rates will continue increasing, reaching an ultimate level in 1986 that is 33 percent greater than the estimated 1977 level

—labor-force participation rates for women will

increase to an ultimate level that is 18 percent greater than the 1976 level

—after 1981, the Consumer Price Index will increase by 4 percent annually

—after 1982, average wages in covered employment will rise by 5¼ percent annually

—the unemployment rate for the total labor force will be 5 percent after 1980

—hospital costs will increase by about 15 percent annually for the next 5 years; after 10 years the annual increase is assumed to be about 10 percent.

Assumptions were also made concerning other variables, such as the timing pattern of fertility, migration levels, insured status, disability termination rates, marital status, administrative expenses, and interest rates.

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

The Social Security Amendments of 1977
Public Law 216, 95th Congress
Brief Summary of Major Provisions And
Detailed Comparison With Prior Law



APRIL 8, 1978

NOTE.—This document has been printed for information purposes only. It has not been considered or approved by the subcommittee.

Prepared by the staff of the Subcommittee on Social Security

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1978

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FOREWORD

The purpose of this publication is to describe in a systematic manner the basic provisions of Title II of the Social Security Act, the Old-Age, Survivors and Disability Insurance Programs, and to note those areas where substantive legislative changes were made by Public Law 95-216 (91 Stat. 1509), 95th Congress, 1st Session. Included in the description are notes where major judicial decisions affecting Title II have been reported.

This document is not designed to be a section-by-section analysis of the Social Security Amendments of 1977. Rather, it is intended to provide the reader with a narrative synopsis of the major legislative changes in Title II and a ready comparison with the provisions of the law prior to enactment of Public Law 95-216.

It is the intention of the staff to incorporate the amendments into the general description of existing law in a later publication, and to note areas where further legislative changes are contained in bills introduced in the 95th Congress or recommended by the Carter Administration.

BRIEF SUMMARY OF PUBLIC LAW 95-216, THE SOCIAL SECURITY AMENDMENTS OF 1977

FINANCING

The legislation makes provision for strengthening both the short- and long-range financial stability of the social security cash benefits program, including meeting the cost of the benefit improvements made by these amendments. The legislation will result in annual excesses of income over outgo beginning in 1980; it eliminates the medium-range deficits (over the next 25 years) and provides adequate financing well into the next century; and, it reduces the long-range deficit very substantially—from over 8 percent of taxable payroll to less than 1½ percent. Detailed information on the effects of the legislation appears in the appendix. The specific tax rates and wage bases under the new law are shown below.

Tax rates.—The legislation includes a schedule of social security tax rate increases for old-age, survivors, and disability insurance, and health insurance (OASDHI) over prior law in 1979, 1981, 1982, 1985, 1986, and 1990 to provide additional financing. Tax rates for the self-employed will be adjusted to restore the original level of one and one-half times the employee rate for the old-age, survivors, and disability portion of the tax, effective in 1981. Provision is made for a substantial reallocation of income to the disability trust fund which would have been exhausted by the end of 1979. There are also shifts in scheduled tax increases between the old-age, survivors, and disability insurance (OASDI) and hospital insurance (HI) programs. The tax rate schedule under prior law and under the 1977 amendments is as follows:

(1)

Tax rates for old-age and survivors insurance, disability insurance, and hospital insurance (OASDHI)

[In percent]

Calendar year	Prior law					Public Law 95-216				
	OASI ¹	DI ¹	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
EMPLOYERS AND EMPLOYEES, EACH										
1977.....	4.375	0.575	4.95	0.90	5.85	4.375	0.575	4.95	0.90	5.85
1978.....	4.350	.600	4.95	1.10	6.05	4.275	.775	5.05	1.00	6.05
1979-80.....	4.350	.600	4.95	1.10	6.05	4.330	.750	5.08	1.05	6.13
1981.....	4.300	.650	4.95	1.35	6.30	4.525	.825	5.35	1.30	6.65
1982-84.....	4.300	.650	4.95	1.35	6.30	4.575	.825	5.40	1.30	6.70
1985.....	4.300	.650	4.95	1.35	6.30	4.750	.950	5.70	1.35	7.05
1986-89.....	4.250	.700	4.95	1.50	6.45	4.750	.950	5.70	1.45	7.15
1990-2010.....	4.250	.700	4.95	1.50	6.45	5.100	1.100	6.20	1.45	7.65
2011 and later.....	5.100	.850	5.95	1.50	7.45	5.100	1.100	6.20	1.45	7.65
SELF-EMPLOYED PERSONS										
1977.....	6.185	0.815	7.0	0.90	7.90	6.1850	0.8150	7.00	0.90	7.90
1978.....	6.150	.850	7.0	1.10	8.10	6.0100	1.0900	7.10	1.00	8.10
1979-80.....	6.150	.850	7.0	1.10	8.10	6.0100	1.0400	7.05	1.05	8.10
1981.....	6.080	.920	7.0	1.35	8.35	6.7625	1.2375	8.00	1.30	9.30
1982-84.....	6.080	.920	7.0	1.35	8.35	6.8125	1.2375	8.05	1.30	9.35
1985.....	6.080	.920	7.0	1.35	8.35	7.1250	1.4250	8.55	1.35	9.90
1986-89.....	6.010	.990	7.0	1.50	8.50	7.1250	1.4250	8.55	1.45	10.00
1990-2010.....	6.010	.990	7.0	1.50	8.50	7.6500	1.6500	9.30	1.45	10.75
2011 and later.....	6.000	1.000	7.0	1.50	8.50	7.6500	1.6500	9.30	1.45	10.75

¹ By allocation in the law.

Taxable wage base.—There shall also be *ad hoc* increases in the taxable wage base above prior law in 1979, 1980, and 1981. After 1981, the base will be increased annually in line with wage levels whenever there has been a cost-of-living benefit increase in the preceding year as under prior law. The legislation maintains the parity principle under which employers and employees pay on the same amount of earnings each year. Following is the new taxable base schedule for employers, employees and the self-employed:

Contribution and benefit base

	Prior law	Public Law 95-216
Calendar year:		
1977-----	\$16, 500	\$16, 500
1978-----	¹ 17, 700	¹ 17, 700
1979-----	¹ 18, 900	22, 900 ¹
1980-----	¹ 20, 400	25, 900
1981-----	¹ 21, 900	29, 700
1982-----	¹ 23, 400	¹ 32, 100
1983-----	¹ 24, 900	¹ 34, 500
1984-----	¹ 26, 400	¹ 36, 900
1985-----	¹ 27, 900	¹ 39, 600
1986-----	¹ 29, 400	¹ 42, 000
1987-----	¹ 31, 200	¹ 44, 400

¹ Automatic.

DECOUPLING

To correct unintended effects in the benefit computation procedures which produce benefits for future beneficiaries that could vary haphazardly with wage and price fluctuations and that would generally be much higher than originally intended, the legislation "decouples" the system. The new decoupled system indexes a worker's earnings to reflect annual increases in average earnings levels up to the second year before eligibility (age 62 or disability) or death. This has the effect of assuring that generation to generation similarly situated beneficiaries will receive relatively the same levels of benefits. The benefit level adopted for the long-term is 5 percent below estimated 1979 levels. Included in the legislation is a 5-year guarantee of December 1978 levels to provide a gradual transition to the new system for workers who will reach age 62 in 1979 through 1983. The transition provision will not be applicable to disability and survivor cases. As under prior law, benefits will continue to be increased according to the increases in the cost-of-living after a person reaches age 62 or becomes disabled, or in the case of survivor's benefits, after the time of the worker's death. The "decoupling" provisions eliminate over one-half of the long-range deficit in the social security system.

OTHER BENEFIT PROVISIONS

Minimum.—The present minimum benefit for future beneficiaries will be frozen at its December 1978 dollar amount (about \$122 for an individual). The minimum benefit will be adjusted for annual cost-of-living increases beginning with the earlier of the year the individual starts receiving benefits or the year he reaches age 65.

Special minimum.—This benefit, provided for long-term, low-paid workers, increased. Under prior law this benefit was equal to \$9 times the number of years coverage a worker had in excess of 10 and up to 30; this benefit was not subject to annual cost-of-living increases. The legislation revives this benefit by increasing the \$9 figure to \$11.50, which will provide a maximum payment of \$230 a month, and by making the benefit subject to annual cost-of-living increases in the future.

Delayed retirement credit.—Prior law provided that retirement benefits would be increased 1 percent a year for each year that a worker continued to work beyond age 65 without taking his benefits. The legislation increases this to 3 percent for workers reaching age 62 after 1978; it will apply beginning in 1982. The worker's delayed retirement credits will also apply to widow's and widower's benefits.

Limitation on retroactive benefits.—Under prior law a person who filed an application after he was first eligible could get benefits for a retroactive period up to 12 months before the month in which the application was filed. However, this could result in some cases in a permanent reduction in the monthly benefit. The legislation eliminates retroactive payments where the result would be a permanently reduced benefit (except in cases where the benefits were disability-related or where unreduced dependent's benefits were involved).

Cost-of-living increases for early retirees.—The legislation changes the basis for calculating cost-of-living increases for early social security retirees to place them on the same footing as persons who retire at age 65 or later. Under prior law, an early retiree who began receiving benefits between ages 62 and 65 had his monthly payment permanently reduced on an actuarial basis to take account of the longer period on the average that he would receive benefits. However, when a cost-of-living increase was effective after he attained age 65, the early retiree received this as if he were drawing a full benefit and not an actuarially reduced benefit. The legislation makes applicable to cost-of-living increases for early retirees the same actuarial reduction that is applied to their original monthly benefit.

RETIREMENT TEST

The new law raises to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, \$5,500 in 1981, and \$6,000 in 1982 the annual amount of earnings a beneficiary, age 65 or over, may have without having any benefits withheld. After 1982, the limitation will be adjusted automatically on the basis of earnings levels in line with prior law. The retirement figure of prior law, which rose from \$3,000 in 1977 to \$3,240 in 1978, will continue to apply to beneficiaries under age 65.

The exempt age, which fixes the point at which elderly individuals may receive full benefits without regard to their earnings, has been reduced from 72 to 70 beginning in 1982.

The bill eliminates the monthly measure of retirement—the provision in prior law under which full social security benefits were paid for any month in which a person earns one-twelfth of the annual retirement test amount, or less, regardless of total earnings for the year. However, the monthly measure will be retained for the first year in which a worker begins to receive retirement benefits.

TREATMENT OF MEN AND WOMEN

Under the legislation, remarriage after age 60 will not act to reduce benefits of widows and widowers.

The duration of marriage requirement for divorced spouse's benefits has been reduced from 20 years to 10.

The Secretary of Health, Education, and Welfare is directed to conduct a study of changes in the social security program needed to guarantee that women, as well as men, are treated equitably. The study is to be completed and a report submitted to Congress within 6 months after enactment of the legislation.

DEPENDENCY BENEFITS—PUBLIC PENSION OFFSET

Public Law 95-216 contains an offset provision under which social security dependency benefits payable to spouses or surviving spouses will be reduced (dollar for dollar) by the amount of a public (Federal, State, or local) pension

available to the spouse. The offset would apply only to pension payments based on the spouse's own work in public employment which is not covered under social security. The provision applies to applications for such dependency benefits in and after the month of enactment of the bill. (December, 1977.)

The provision contains an exception under which the offset will not apply to individuals who were receiving or will be eligible to receive a public pension within 5 years after enactment. This is designed to protect those persons already retired or nearing retirement who were expecting a social security dependency benefit based on their spouse's record but were not receiving it because of their age or the fact that their spouses were not yet receiving benefits.

NATIONAL COMMISSION ON SOCIAL SECURITY

The legislation provides for establishment of a bipartisan National Commission on Social Security, independent of the executive branch, composed of nine members—five appointed by the President and two each by the Speaker of the House and the President pro tempore of the Senate—to make a broad study of the social security program including medicare. The study would include the fiscal status of the trust funds, coverage, adequacy of benefits, possible inequities, alternatives to the current programs and to the method of financing the system, integration of the social security system with private retirement programs, and development of a special price index for the elderly. The Commission shall present its full report to the President and to the Congress within 2 years after a majority of the members are appointed.

UNIVERSAL COVERAGE

The new law provides for a comprehensive study of the question of instituting universal coverage for social security by bringing under the system on a mandatory basis all Federal employees, and the remainder of State and local government employees and employees of nonprofit organizations not now covered by the system. The study would include alternative methods of coordinating social security coverage with retirement systems which now apply to the public employees involved. The study will be under the direction of the Secretary of Health, Education, and Welfare who will consult with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Chairman of the Civil Service Commission. The HEW Secretary is directed to complete the study and submit a report with recommendations to the President and to Congress within 2 years of enactment.

INTERNATIONAL SOCIAL SECURITY AGREEMENTS (TOTALIZATION)

Included in the legislation is a provision to authorize the President to enter into bilateral agreements with interested countries providing for limited coordination of the U.S. social security system with systems of other countries. The agreements, known as totalization agreements, would eliminate dual social security coverage for the same work in each country covered by an agreement, and would enable individuals who work for periods in each of the countries covered by an agreement to qualify for a benefit based on their coverage and earnings in both countries in situations where they were not previously eligible for benefits in one or both of the countries involved. The United States already has negotiated agreements with Italy and West Germany which could be put into effect under this provision. Each agreement will have to be submitted to Congress for 90 days while it is in session before it could take effect; during that period either the House or Senate could veto the agreement by majority vote.

BLIND DISABILITY BENEFITS

Blind persons will be eligible for social security disability benefits despite higher earnings than were permitted under prior law. Under prior regulations, substantial gainful activity (SGA) was measured at \$200 a month (\$2,400 a year) and earnings over this amount would lead to termination or suspension of benefits. Under the legislation, the SGA monthly amount for blind disability beneficiaries will be the same as the retirement test for persons age 65 and over.

INVESTMENT INCOME UNDER LIMITED PARTNERSHIPS

In recent years, a growing number of businesses have advertised limited partnerships as a means of acquiring social security coverage solely through the income on investments in such partnerships. Public Law 95-216 excludes from social security coverage the distributive share of income or loss from the trade or business of a partnership which is received by a limited partner.

ANNUAL WAGE REPORTING

Public Law 94-202 enacted in 1976 provided that employers other than State and local governments and employers of domestic workers would report their employees' wages for social security and income tax purposes annually on forms W-2 beginning with wages paid in 1978. But the law also required employers to report quarterly wage data on forms W-2 to enable the Social Security Administration to determine whether a worker has enough quarters of coverage to be eligible for social security benefits. The legislation changes this so that annual data will be used instead of quarterly data. Under the bill, employers no longer will be required to report quarterly data on forms W-2.

Under prior law, a worker generally received credit for a quarter of coverage for a calendar quarter in which he received at least \$50 in wages. Under the new law, a worker will receive one quarter of coverage (up to a total of four) for each \$250 of earnings in a year, and the \$250 amount shall be automatically increased every year to take account of increases in average wages.

EMPLOYEES OF NONPROFIT ORGANIZATIONS

The legislation contains provisions designed to correct some unintended effects of Public Law 94-563 enacted in 1976 to deal with problems of nonprofit organizations that had been paying social security taxes without filing the necessary waivers with the Internal Revenue Service to make the payments legal.

One provision in the new law would forgive back taxes due, up to June 30, 1977, on behalf of nonprofit organizations which ceased paying social security taxes after they had found they were not required to do so, but did not receive a refund of those taxes.

Another provision extends to March 31, 1978, the period during which nonprofit organizations that had received a refund of social security taxes can file a waiver certificate and list only those employees who had wanted to be covered under social security. Under this waiver, they would owe back taxes only on the listed employees. The right to file such a waiver under Public Law 94-563 expired April 18, 1977.

Another provision provides for a refund of back taxes to nonprofit organizations that stopped paying social security taxes before October 1, 1976, but then paid the back taxes after they were requested to do so following passage of Public Law 94-563.

TAXATION OF CORPORATIONS

The legislation provides that a group of related corporations concurrently employing a worker will be considered as a single employer if one of the group

serves as a common paymaster for the entire group. This would mean that the group of corporations would have to pay no more in social security and unemployment taxes for a single worker than a single employer pays.

OTHER SOCIAL SECURITY PROVISIONS

Quadrennial Advisory Council on Social Security.—The new law changes the reporting date for the current Advisory Council from January 1, 1979, to October 1, 1979.

Administrative law judges.—Public Law 94-202 established temporary administrative law judge positions to hear social security, medicare, and supplemental security income cases. Public Law 95-216 converts these appointments to permanent status.

Delivery of benefit checks.—The legislation provides that if the regularly designated dates for delivery of social security and supplemental security income benefit checks fall on a Saturday, Sunday, or legal holiday, the benefit checks will be mailed for delivery on the first day preceding the scheduled delivery date which is not a Saturday, Sunday, or legal holiday, regardless of whether this necessitates the delivery of two checks in one month.

Coverage of tips.—Under social security, tip income (if over \$20 a month) is taxed on the employee alone. Under the recently enacted legislation the employer will be taxed on tip income up to the amount that combined with the employee's salary equals the minimum wage under the Fair Labor Standards Act.

Clergymen.—The new law will permit clergymen who previously did not elect social security coverage in the past a second opportunity to come under the system as self-employed persons.

Mississippi policemen and firemen.—The new law authorizes social security coverage for Mississippi policemen and firemen who previously were excluded from the system.

Wisconsin public employees.—The legislation authorizes a consolidated public employee group in Wisconsin to continue under social security on the same terms which applied to three groups before they were merged into the consolidated organization.

New Jersey public employees.—The legislation adds New Jersey to the list of States which are permitted to hold referendums among public employees for coverage under social security. Those voting for coverage will be brought under social security; those voting against will remain out of the system. All future employees would be covered.

Illinois police and fire chiefs.—The legislation provides approximately 400 Illinois police and fire chiefs with credits for past payments into the social security system (and future coverage) even though the applicable law did not permit such payments when they were made.

Railroad retirement system and Pension Benefit Guaranty Corporation.—Public Law 95-216 contains a provision to guarantee that the *ad hoc* increases in the taxable earnings base will not increase the employer tax liability to finance tier-II benefits under the railroad retirement system. Tier-II benefits are those paid to supplement the tier-I payments which correspond to basic social security benefits. Similarly, the new law provides that the increases in the earnings base shall not increase the maximum amount of pension insured by the Pension Benefit Guaranty Corporation established under the Employee Retirement Income Security Act of 1974.

Wheelchairs.—The legislation will permit payment for certain power-operated wheelchairs under medicare where the vehicle is determined to be medically necessary and safe.

PUBLIC ASSISTANCE AMENDMENTS

Fiscal relief for State and local welfare costs.—The legislation provides \$187 million of such relief to be paid immediately for fiscal 1978 costs.

Error rates in the aid to families with dependent children program.—The new law establishes a system of monetary fiscal incentives for States which have low dollar rates in the AFDC program. The errors considered as a part of this provision would be overpayments to ineligible, underpayments, and erroneous denials and terminations.

Access by AFDC agencies to wage records.—The legislation authorizes State AFDC agencies to obtain Social Security Administration and State unemployment compensation agency wage data for purposes of determining eligibility for AFDC or the amount of an AFDC payment with appropriate safeguards to be established by HEW.

State welfare demonstration projects.—The new law authorizes the States to engage in demonstration projects related to the AFDC program. There would be public notices of each plan and copies of the plan available to the public. The Health, Education, and Welfare Department shall review each plan and can prevent its implementation by withholding approval. The prevailing wage would have to be paid in the projects.

Errors in supplemental security income supplementary payments.—The legislation directs the HEW Secretary to reimburse the States for erroneous state supplemental payments paid during 1974 to the extent that an HEW audit determines is appropriate and after the audit is approved and reviewed by the HEW inspector general.

NON-SOCIAL SECURITY ACT AMENDMENT

Honoraria under the Federal Election Campaign Act.—Under this act, Federal officers including Members of Congress and employees cannot accept an honorarium of more than \$2,000 or honoraria aggregating more than \$25,000 in a year. Public Law 95-216 provides that a contribution to a charitable organization selected by the payor from a list of five or more organizations named by the Government officer or employee shall not be counted as an honorarium. In addition, the legislation provides that amounts returned to a payor before the end of a year would not be treated as honoraria and that honoraria would be treated as accepted in the year of receipt.

**SOCIAL SECURITY BENEFITS (OASDI)—PRIOR LAW AND LAW AS AMENDED IN
95TH CONGRESS**

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

I. COVERAGE

Item	Prior law	Law as amended by Public Law 95-216
A. Self-employed-----	<p><i>Covers</i> all self-employed if they have net earnings from self-employment of \$400 a year except that certain types of income, including dividends, interest, sale of capital assets and rentals from real estate are not covered unless received by dealers in real estate and securities in the course of business dealings. A regularly self-employed worker may elect to report for social security purposes two-thirds of his gross nonfarm self-employment income if (1) his total net earnings from self-employment (farm and nonfarm) are less than \$1,600 and (2) his net self-employment earnings from his nonfarm business are less than two-thirds of his gross income from such business. The nonfarm option cannot be used more than 5 times and only when net self-employment earnings have been \$400 or more in at least 2 of the 3 years immediately preceding taxable years. (This option is similar to the option available to farmers.)</p> <p>For purposes of determining a worker's average monthly wage and quarters of coverage, in the case of taxable year which is a calendar year, the self-employment income derived in the taxable year is credited equally to each quarter of the calendar year; and in the case of any other taxable year, the self-employment income is credited equally to the calendar quarter in which the taxable year ends and to each of the next three or fewer preceding quarters, any part of which is in the taxable year.</p>	<p>No change.</p> <p>Provides that for taxable years beginning after 1977 self-employment income will be credited to the calendar year for purposes of determining a person's average monthly wage or quarters of coverage, if the income was derived in a taxable year which is a calendar year or which begins and ends in a single calendar year. If the taxable year beginning after 1977 was not a calendar year, and did not begin and end in a single calendar year, the self-employment income will be allocated equally to each month of the taxable year, and the income to be credited to the parts of the 2 calendar years within the taxable year will be determined by the number of months in each calendar year (the month in which the taxable year ends will be treated as wholly within the taxable year).</p>

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OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

I. COVERAGE—Continued

Item	Prior law	Law as amended by Public Law 95-216
A. Self-employed—Continued		
<p>1. Ministers and members of religious orders.</p>	<p><i>Covers</i> as self-employed duly ordained, commissioned, or licensed ministers, Christian Science practitioners, and members of religious orders (other than those who have taken a vow of poverty).</p> <p>Clergymen can elect not to be covered if they are conscientiously opposed to social security coverage or on grounds of conscientious belief or religious principle. An exemption from coverage received by a clergyman is irrevocable.</p> <p>Clergymen who are serving outside the United States compute self-employment earnings in the same way as clergymen in the United States.</p> <p>Members of religious orders employed outside of the religious community are subject to FICA and income tax withholding. (See sec. I, B-16, for vow of poverty, religious.)</p>	<p>Permits clergymen and Christian Science practitioners who filed on application for exemption from social security coverage in the past to revoke their exemption and obtain social security coverage. The revocation must be filed before the due date of the clergyman's Federal income tax return for his first taxable year beginning after the date of enactment of the measure, December 20, 1977. The revocation is irrevocable.</p> <p>Coverage will be effective for the clergymen's first taxable year ending on or after enactment or beginning after enactment (whichever is specified in the application) and effective for benefits payable for months in or after the calendar year in which the application is filed.</p>
<p>2. Members of certain religious sects.</p>	<p><i>Excludes</i> a member of certain religious sects who files request for exemption provided:</p> <p>(1) he has never received benefits under the Social Security Act and waives all rights to such benefits;</p> <p>(2) he is member of a recognized religious group (which has been in existence since December 31, 1950) and by reason of the tenets of such group is conscientiously opposed to accepting benefits under any private or public insurance plan which provides benefits in the event of death, disability, retirement, or which insures against the risk of medical care; and</p> <p>(3) the religious group makes reasonable provision for its dependent members and has done so since December 31, 1950.</p>	<p>No change.</p>
<p>3. Farm operators-----</p>	<p><i>Covers</i> farm operators on the same basis as other self-employed persons except that farm operators whose annual gross earnings are \$2,400 or less can report either their actual net earnings or 66$\frac{2}{3}$ percent of their gross earnings.</p> <p>Farmers whose annual gross earnings are over \$2,400 report their actual net earnings if over \$1,600, but if actual net earnings are less than \$1,600, they may report either actual net earnings or \$1,600.</p> <p>Rentals from real estate are not creditable as self-employment earnings, but if landlord under arrangements with tenant or share farmer participates materially in the production of, or in the management of, the crops or livestock on his land, the income is covered.</p> <p><i>Covers</i> share farmers as self-employed.</p>	<p>No change.</p>

4. Fishing boat crewmen ----- The Tax Reform Act of 1976 provided that a fishing boat crewman is covered as self-employed providing he is paid entirely by a share of the catch (or a share of the proceeds from the sale of the catch) on a boat with operating crew normally made up of fewer than 10 persons and his share depends on the amount of the catch. The boat operator is required to report to the Secretary of the Treasury the percentage of each crewman's share of the catch, and the weight of each share of the catch distributed to each crewman (or the amount distributed to each from the proceeds from the sale of the catch). This provision applies retroactively to 1972 and thereafter. Those who have been covered as regular employees are not required to pay retroactively the higher self-employment rate. Also refunds of employer's share may not be made to boat operators. No change.
5. Public officials ----- *Excludes* individuals performing functions of public office other than functions of a public office of a State or local subdivision compensated solely on a fee basis not covered under agreements between the individual State and the Secretary of Health, Education, and Welfare (*see* sec. I, B-6). A public official may be covered as an employee of a State or local government under State agreement. No change.
6. Newspaper vendors ----- *Covers* employees over age 18 who buy newspapers and magazines at one price and sell them at an arranged fixed price, and whose pay is the difference between the two prices regardless of whether they are guaranteed minimum compensation or may return unsold papers and magazines. No change.
Covers individuals of any age who sell newspapers in an independent capacity (not as employees).
7. Limited partnerships ----- A partner's share of partnership income is includable in his net income from self-employment irrespective of the nature of his membership in the partnership. Excludes for social security coverage purposes the distributive share of income or loss from the trade or business of a partnership received by a limited partner who performs no service for the partnership.
The exclusion from coverage does not extend to guaranteed payments such as salary and professional fees, received for services actually performed by the limited partner for the partnership, or distributive shares received as a general partner.
8. Retirement payments to retired partners. Retirement payments received by a retired partner excluded for all social security benefit purposes if the retired partner had no interest in the partnership, and rendered no services to the partnership, and if his share of the capital of the partnership had been paid to him. The payments must be made under a written plan which meets requirements set up by the Secretary of the Treasury; a plan must provide that the payments must be on a periodic basis and continue until the partner's death. Effective for taxable years ending on or after December 31, 1967. No change.
Retirement payments are not considered earnings for the retirement test purposes if no services are performed.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

I. COVERAGE—Continued

Item	Prior law	Law as amended by Public Law 95-216
<p>A. Self-employed—Continued</p> <p style="padding-left: 20px;">9. Married couple in community property States.</p>	<p>In community property States all income from a business owned or operated by a married couple is deemed, for social security purposes, to be the husband's unless the wife exercises substantially all management and control. In other States, such self-employment income is credited to the spouse who owns or is predominantly active in the business.</p>	<p>No change.</p>
<p>B. Employees-----</p>	<p>Covers employment not otherwise excluded, of an "employee" defined as follows:</p> <p style="padding-left: 20px;">(1) any officer of a corporation,</p> <p style="padding-left: 20px;">(2) any individual who, under the usual common-law rules, has the status of an employee,</p> <p style="padding-left: 20px;">(3) any other individual (apart from common-law rules) who performs services as:</p> <p style="padding-left: 40px;">(a) an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services, for his principal;</p> <p style="padding-left: 40px;">(b) a full-time insurance salesman;</p> <p style="padding-left: 40px;">(c) a home worker performing work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him; or</p> <p style="padding-left: 40px;">(d) a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.</p> <p>As to the individuals in (a) through (d) their contract of service must provide that substantially all of such services are to be performed personally. Such an individual shall not be considered an "employee" if he has a substantial investment in facilities connected with the services performed (other than transportation), or if the services are a single transaction and not part of a continuing relationship with the person for whom the services are performed.</p>	<p>No change.</p>

1. Agricultural workers----- *Covers* agricultural workers who either (1) are paid \$150 or more in cash wages in a calendar year by an employer or (2) perform agricultural labor for an employer on 20 days or more during the calendar year for cash wages. This farm work must be in connection with cultivating the soil or raising agricultural or horticultural commodities. Workers who are recruited and paid by a crew leader shall be deemed to be employees of the crew leader if such crew leader is not, by written agreement, designated to be an employee of the owner or tenant and if such crew leader is customarily engaged in recruiting and supplying individuals to perform agricultural labor. Under such circumstances the crew leader shall be deemed to be self-employed.
- And excludes:*
- (a) Mexican contract workers.
- (b) Workers lawfully admitted to the United States from the Bahamas, Jamaica, and other islands in the British West Indies or from any other foreign country or its possessions on a temporary basis to perform agricultural labor.
- No change.
2. Domestic workers----- *Covers* persons performing domestic service in private nonfarm homes if they receive \$50 or more during a calendar quarter from one employer. Noncash remuneration is excluded.
- Excludes* students performing domestic service in clubs or fraternities if enrolled and regularly attending classes at school, college, or university.
- No change.
3. Casual labor----- *Covers* cash remuneration for service not in the course of the employer's trade or business if the remuneration is \$50 or more from one employer during a calendar quarter.
- Changes the amount of remuneration to at least \$100 from one employer in a calendar year, effective with respect to remuneration paid after December 31, 1977.
4. Cash tips----- Cash tips received by an employee in the course of his employment are covered as wages for social security purposes if the tips amount to \$20 or more a month for employment by one employer. Employers are not required to pay the social security employer tax on the tips. The tips shall represent compensation for income tax purposes even though less than \$20 a month or even though paid in other than cash but are not, under either of these conditions, subject to withholding for income tax purposes. However, tips amounting to \$20 or more a month in work for one employer are subject to withholding for income tax purposes.
- The employee is required to give his employer a written report of his tips within 10 days after the end of the month in which the tips are received. To the extent that the employer does not have sufficient wage payments (or funds turned over to him by the employee) to offset the required withholding, he notifies the employee and the employee reports this amount to the Government directly.
- If an employee fails to report, as required by law, some or all of his covered tips to his employer, he is liable not only for the employee social security tax due on the unreported tips, but also for an additional amount equal to 50 percent of the employee tax. He pays his social security tax on these tips to the District Director of the Internal Revenue Service.
- Requires employers to pay social security taxes on tips deemed to be wages under Fair Labor Standards Act (minimum wage law). Under that law an employer can pay an employee up to fifty percent less than the Federal minimum wage by counting as wages for this purpose tips received by the employee.
- Effective for tips that are counted as wages under the minimum wage law with respect to employment performed after December 31, 1977.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

I. COVERAGE—Continued

Item	Prior law	Law as amended by Public Law 95-216
B. Employees—Continued 4. Cash tips—Continued	<p>The employer is required to withhold the employee social security tax only on tips reported to him within the specified time and for which he has sufficient funds of the employee out of which to pay the tax.</p> <p>The Tax Reform Act of 1976 provides that the IRS is not to take action until January 1, 1979, to enforce its recent ruling that required employers to report separately to the IRS charge account tips not reported to employers by employees and therefore not reported to IRS by employers as wages subject to withholding under prior law.</p>	
5. Incentive pay as deferred compensation.	<p><i>Covers</i> deferred compensation payments such as incentive payments made by an employer to an employee (or any of his dependents) after employment relationship ends unless—</p> <ol style="list-style-type: none">(1) the payment is made under a plan established by the employer for his employees generally, or a class or classes of employees, or such employees and their dependents;(2) the employment relationship ended because of death, retirement for disability, or retirement for age specified in the plan; and(3) the payment would not have been made if the employee had not terminated his employment.	No change.
6. State and local government employees.	<p><i>Covers</i> employees of States and political subdivisions thereof, under voluntary agreements between the Secretary of Health, Education, and Welfare and each State with the following special provisions:</p> <p>(a) With respect to each group covered the following can be excluded:</p> <ol style="list-style-type: none">(1) work in any class or classes of elective positions;(2) work in any class or classes of part-time positions;(3) work in any class or classes of positions the compensation for which is on a fee basis;(4) services of election officials or workers who are paid less than \$50 in a calendar quarter;(5) work performed by a student employed by the public school, college, or university in which he is regularly enrolled and attending classes. <p>(b) The following are mandatorily excluded:</p> <ol style="list-style-type: none">(1) work by employees who are employed to give them relief from unemployment;(2) service performed in hospital, home, or other institution by patient or inmate thereof;(3) work by transportation system employees who are covered compulsorily by social security under provisions applicable to employees in private industry;	Changes this amount of remuneration to \$100 in a calendar year, effective with remuneration paid after December 31, 1977.

(4) services of the types which would be excluded by the general coverage provisions of the law if they were performed for a private employer, *except* that agricultural and student services in this category may be covered at the option of the State;

(5) services performed by an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other emergency;

(6) services of policemen and firemen (except in certain States—*see* (c) below) if their positions are covered by a retirement system including policemen not eligible to become members of the system.

(c) Employees who are in positions covered under an existing State or local retirement system may be covered under State agreements only if a referendum is held by a secret written ballot, after not less than 90 days' notice, the opportunity to vote is given and limited to the eligible employees, the vote is supervised by the Governor or his delegate, and the majority of eligible employees under the retirement system vote in favor of coverage. The Governor of a State or his delegate must certify that these conditions have been met. In most States, all members of a retirement system (with minor exceptions) must be covered if any members are covered.

A retirement system for referendum purposes may consist of all employees in positions under a system, employees of the State in positions under a system, employees of one or more political subdivisions under a system, employees of the State and one or more political subdivisions under a system, employees of each institution of higher learning (including a junior college or a teachers' college) under a system, and employees of a hospital which is an integral part of a political subdivision under a system.

In addition, employees whose positions are covered by a retirement system but who are not themselves eligible for membership in the system could be covered without a referendum. Employees who are members or who have an option to join more than one State or local retirement system cannot be covered unless all such retirement systems are covered.

Individuals in positions under retirement systems on September 1, 1954, are precluded from obtaining coverage under the retirement system coverage provisions.

Exceptions to general law concerning coverage in named States:

(1) *Split-system provisions.*—Authorizes Alaska, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Massachusetts, Minnesota, Nevada, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, and Wisconsin, and all interstate instrumentalities, at their option, to extend coverage to employees under a retirement system by dividing such a system into two parts, one to be composed of positions of those members who desire coverage and the other of positions of those members who do not wish coverage, provided that new members of the retirement system coverage group are covered.

Includes New Jersey in the list of States which may make social security coverage available to State and local employees under the divided retirement system procedure effective upon enactment.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

I. COVERAGE—Continued

Item	Prior law	Law as amended by Public Law 95-216
B. Employees—Continued 6. State and local government employees—Continued	<p>Those employees covered by a divided retirement system who did not elect coverage in the original agreement, may nevertheless at the option of the State elect coverage within 2 years after the date on which coverage was approved for the group that originally elected coverage. The 2-year time limitation has been extended on four occasions by amendments to the social security law in 1958, 1961, 1965, and 1967. The coverage of persons electing under these provisions would begin on the date that coverage became effective for the group originally covered.</p> <p>(2) <i>Policemen and firemen.</i>—Allows the States of Alabama, California, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, Montana, New York, North Carolina, North Dakota, Oregon, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, and Washington and all interstate instrumentalities to make coverage available to policemen and firemen in positions under a retirement system in those States, subject to the same conditions that apply to coverage of other employees who are under State and local retirement systems. However, at the option of the State, for purposes of holding a referendum and becoming covered, a separate retirement system may be deemed to exist in regard to the policemen, the firemen, or both.</p> <p>Firemen in other States may be covered if the Governor of the State certifies that the total benefit protection of the group of firemen would be improved as a result of social security coverage. The divided retirement system cannot be used and firemen have to be covered as a separate group and not as part of a group which includes employees other than firemen. Services of policemen and firemen whose positions are not under a retirement system of the State or political subdivision are covered when coverage becomes effective for other employees of the State or political subdivision in positions not under a retirement system.</p> <p>(d) <i>Effective date of coverage agreement.</i>—Allows agreements or modifications to become effective at a date specified by the State as early as 5 years before the year in which an agreement or modification is executed by Secretary of HEW.</p> <p>Coverage agreements generally are effective when the agreements are mailed or delivered to the Secretary. However, in cases involving maximum retroactivity of coverage or coverage of positions compensated solely on a fee basis, the effective date is the date the agreement is executed by the Secretary.</p> <p>A modification to cover a new group may provide retroactive coverage for former employees with respect to earnings that had been erroneously reported if no refund has been made of the taxes paid on the erroneously reported earnings.</p>	<p>Adds Mississippi to the list of States in the law which may provide social security coverage for policemen and firemen who are in positions covered under a State or local retirement system.</p> <p>Permits Illinois, by modification of its coverage agreement with the Secretary, to provide social security coverage at any time before 1979 for certain policemen and firemen who were in positions covered by the Illinois Municipal Retirement Fund. Any wages erroneously reported in the past for such policemen and firemen would be validated.</p> <p>No change.</p>

(e) *Termination of coverage.*—A State may terminate coverage for a group by giving 2 years' notice to the Secretary after the coverage has been in effect for at least 5 years. A group for purposes of coverage termination consists of all of the employees of a State or political subdivision of the State such as a city or county. The Secretary of Health, Education, and Welfare may terminate the coverage if he determines that the State has failed in complying with the agreement. The termination applies to all members of the group and once coverage has been terminated for a coverage group, it can never again be provided for that group. A State may terminate its agreement effective at the end of a calendar quarter, specified in the notice.

(f) *Penalty for late State deposits.*—The rate of interest charged on late payments by States of amounts due the Secretary under agreements providing social security coverage for State and local employees is 6 percent.

7. Employees of nonprofit organizations.

Covers employees of religious, charitable, education, and other nonprofit organizations (which are exempt from income tax and are described in section 501(c)(3) of the Internal Revenue Code) on a voluntary basis if the employer organization waives its exemption from the employment tax by filing a waiver certificate certifying that it desires to extend coverage to its employees. The waiver certificate must be accompanied by a list of concurring employees. The organization may file supplemental lists of concurring employees within 24 months after the quarter in which the certificate is filed. Employees who do not concur in the filing of the certificate are not covered except that all employees hired after a certificate becomes effective are covered.

Waiver certificate may be made effective at the option of the organization on the 1st day of the quarter in which the certificate is filed, the 1st day of the succeeding quarter, or as early as the 1st day of the 20th calendar quarter preceding the quarter in which the certificate of waiver is filed.

Service performed in a calendar quarter by an employee of a nonprofit organization is not covered unless the remuneration for the service is at least \$50.

Employees of nonprofit organizations who are in positions covered by State and local retirement systems and are members or eligible to become members of such systems must be treated apart from those not in such positions. Certificates must be filed separately for each group. All new employees who belong to a group for which a certificate has been filed are automatically covered, and new employees who belong to a group for which a certificate has not been filed are not covered.

Nonprofit organizations that have been paying social security taxes without having filed a valid waiver certificate to cover employees under the social security system are deemed to have filed such a waiver in those instances where no refund was obtained before September 9, 1976, and also in instances where organizations which received a refund before September 9, 1976, did not file a waiver within 180 days after October 4, 1976 (date of enactment of Public Law 94-563).

A State may terminate its agreement effective only at the end of a calendar year, specified in the notice.

Covers employees of nonprofit organizations where remuneration for services performed after December 31, 1977, is at least \$100 in a calendar year.

Forgives back taxes for nonprofit 501(c)(3) organizations, deemed to have filed a waiver certificate under P.L. 94-563, that stopped paying F.I.C.A. taxes prior to October 1976 and did not receive a refund; refunds back taxes paid after enactment of P.L. 94-563 by certain organizations, deemed to have filed a waiver certificate, that terminated tax payments prior to October 1976.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

I. COVERAGE—Continued

Item	Prior law	Law as amended by Public Law 95-216
B. Employees—Continued		
7. Employees of nonprofit organizations—Continued		Extends from April 19, 1977, to March 31, 1978, the date by which nonprofit organizations that received a refund of erroneously paid taxes may file an actual waiver certificate; requires certain organizations that received a refund of erroneously paid taxes for a period of at least 3 consecutive calendar quarters ending on June 30, 1973, or later (rather than September 30, 1973, as under prior law) to file a waiver certificate by March 31, 1978; provides that those calendar quarters in which organizations were required to pay social security taxes pending determination of their application for section 501(c)(3) tax exempt status shall not be considered calendar quarters in which taxes were paid without having filed a waiver certificate for the purpose of deeming them to have filed a waiver certificate under P.L. 94-563.
8. Students-----	<p>(a) <i>Excludes</i> students in the employ of a school, college, or university if enrolled and regularly attending classes.</p> <p>(b) <i>Excludes</i> services of students performed after 1972 in the employ of an auxiliary nonprofit organization which is organized and operated exclusively for the benefit of and supervised or controlled by the school, college, or university. Does not affect coverage of students under a State agreement.</p> <p>(c) <i>Excludes</i> student nurses employed by a hospital or nurse training school if enrolled and regularly attending classes.</p>	No change.
9. World War II internees----	<i>Provides</i> noncontributory social security credits financed from appropriated general revenues for U.S. citizens of Japanese ancestry for the periods they were interned by the U.S. Government during World War II and were age 18 or older.	No change.
10. Federal employees-----	<p><i>Excludes</i> employees of the United States or its instrumentalities if:</p> <p>(a) they are covered by a retirement system established by Federal law; or</p> <p>(b) they perform services—</p> <p>(1) as the President, Vice President, or a Member of Congress, Delegate, or Resident Commissioner;</p> <p>(2) in the legislative branch;</p> <p>(3) in a penal institution as an inmate;</p> <p>(4) as student nurses, and other student employees of Federal hospitals;</p> <p>(5) as employees on a temporary basis in disaster situations;</p> <p>(6) as employees not covered by the Civil Service Retirement Act because they are subject to another retirement system (other than the retirement system of the</p>	<p>Directs the Secretary of Health, Education, and Welfare to undertake a study and report on mandatory coverage of employees of Federal, State, and local governments and of nonprofit organizations in consultation with the Office of Management and Budget, the Civil Service Commission, and the Department of the Treasury. The study will examine the feasibility and desirability of coverage of these employees and will include alternative methods of coverage, alternatives to coverage, and an analysis, under each alternative, of the structural changes which would be required in retirement systems and the impact on retirement system benefits and contributions for affected individuals.</p> <p>The report, to be made to the Congress and the President, is due by December 20, 1979.</p>

Tennessee Valley Authority); or
 (c) the instrumentality has been specifically exempted by statute from the employer tax; or
 (d) the instrumentality was exempt from the employer tax on December 31, 1950, and its employees are covered by its retirement system.

Covers the following Federal employees excepted from the exclusion in 10(d) unless they are excluded on the basis of one of the other provisions:

- (a) employees of a corporation which is wholly owned by the United States;
- (b) employees of a national farm loan association, a production credit association, a Federal Reserve bank, or a Federal credit union;
- (c) employees (not compensated by funds appropriated by Congress) of the post exchanges of the various armed services (including the Coast Guard) and other similar organizations at military installations;
- (d) employees of a State, county, or community committee under the Production and Marketing Administration;
- (e) employees of the District of Columbia who are not covered by a retirement system.

11. Newsboys----- Covers individuals 18 and over who deliver and distribute newspapers or shopping news, but covers individuals under 18 only if they deliver or distribute such publication to points for subsequent delivery or distribution. No change.

12. Members of the Armed Forces. Covers active duty military service since January 1, 1957. Provides \$300 per quarter in noncontributory social security credit financed from appropriated general revenues for service on active duty, in addition to contributory coverage based on actual earnings. For years after 1977, changes the amount of noncontributory credits to \$100 for each \$300 of wages for military service; the maximum credits are \$1200 in a calendar year.

Noncontributory wage credits paid with appropriated funds from general revenues of \$160 per month are granted, in general, for each month of active service in the Armed Forces of the United States during the World War II period (September 16, 1940–July 24, 1947) and during the postwar emergency period (July 25, 1947–December 31, 1956). Similar noncontributory wage credits are provided for certain American citizens who, prior to December 9, 1941, entered the active military or naval service of countries that, on September 16, 1940, were at war with a country with which the United States was at war during World War II.

A widow may, under certain circumstances, waive the right to a civil service survivor's annuity and receive credit (not otherwise possible) for military service prior to 1957 for purposes of determining eligibility for, or the amount of, social security survivors' benefits.

13. Railroad employees----- Although railroad employment is not covered under social security, the railroad retirement and social security programs are closely coordinated, and one part of the railroad annuity is basically a social security benefit based on railroad and nonrailroad employment. Credits acquired in railroad employment by workers who retire, become disabled, or die with a total of less than 10 years of railroad service are transferred to, and counted toward benefits under the social security program. No change.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

I. COVERAGE—Continued

Item	Prior law	Law as amended by Public Law 95-216
B. Employees—Continued		
<p>13. Railroad employees—Con.</p>	<p>The Railroad Retirement Act contains provisions for a financial interchange between the railroad retirement and social security programs to take into account the income and costs to each program of the close coordination of their benefits. The purpose of these cost adjustment provisions is to put the social security trust funds in the same position they would have been in if railroad service had been covered under social security since its beginning on January 1, 1937.</p> <p>Under the interchange, each year the social security trust funds transfer to the railroad retirement system an amount equal to the social security benefit that would theoretically have been paid if railroad employment had been covered by social security reduced by (1) the amount of the social security employer and employee contributions which theoretically would have been paid on railroad compensation if railroad employment had been covered by social security, and (2) the total of social security benefits actually being paid to railroad beneficiaries based on nonrailroad employment.</p>	
<p>14. Family employment-----</p>	<p>Excludes services rendered by—</p> <ol style="list-style-type: none"> (1) one spouse for another; (2) a child under age 21 for his parent; (3) a parent for his son or daughter if the services are not performed in the course of the son or daughter's trade or business; and (4) a parent for his son or daughter if the services are domestic and performed in or about the home of the son or daughter unless (a) the son or daughter has a child under age 18 or disabled and (b) the son or daughter is either a widow or widower or is divorced or has a disabled spouse. 	<p>No change.</p>
<p>15. Employees of Communist organizations.</p>	<p><i>Excludes</i> from coverage employees of any organization which is registered under the Internal Security Act, as a Communist-action, a Communist-front, or Communist-infiltrated organization during a calendar quarter. There is, however, no longer a requirement for such organizations to register.</p>	<p>Changes the period in which coverage is excluded from a calendar quarter to a calendar year effective with services performed after December 31, 1977.</p>
<p>16. Members of religious organizations under vow-of-poverty.</p>	<p>Coverage is provided to vow-of-poverty members of religious orders if the order irrevocably elects coverage for its entire active membership and lay employees. The member's wages are deemed to be the fair market value of any board, lodging, clothing, or other perquisites furnished by the order but may not be less than \$100 a month.</p>	<p>No change.</p>

17. Sick pay-----

Excludes payments made by an employer to or on behalf of an employee or any of his dependents for sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability if the payments are made under a plan or system which applies to the employer's employees generally or to a class or classes of his employees.

Covers payments for sickness and disability that are not paid under a plan or system established by the employer if:

- (1) paid during the employment relationship; and
- (2) paid before the end of 6 calendar months after the last month in which the employee worked.

Such payments made after the 6-month period are not counted as wages for social security purposes even though the employment relationship continues after the employee has stopped working. Such payments made after the employment relationship ends are not counted as wages unless they are extra pay for past work.

In the case of public employment, however, payments made under a plan or system are usually covered as wages if the payments are made from a regular wage or salary account and the employer has no legal authority to appropriate funds to make payments solely on account of sickness as the payments are considered a continuation of salary rather than a payment on account of sickness. (Social Security Ruling 72-56.)

No change.

18. Home workers-----

Covers workers who perform work in their home according to specifications furnished by the person for whom the services are performed on materials or goods furnished by the person if the remuneration paid in a calendar quarter is at least \$50.

Changes the amount of remuneration to at least \$100 in a year, for services performed after December 31, 1977.

C. Geographical scope-----

Covers work for private employer and self-employment in the 50 States, Puerto Rico, the Virgin Islands, District of Columbia, Guam, and American Samoa.

Authorization is granted to the President to enter into bilateral social security agreements (totalization agreements) with interested foreign countries to provide for limited coordination between the U.S. Social Security System and that of other nations. An agreement will eliminate dual coverage and contributions for the same work under the social security systems of two cooperating countries and will provide that in determining eligibility and the amount of benefits payable, each country will take into account a wage earner's coverage and earnings in both countries. Under an agreement each country will pay only a part of the benefit computed on the basis of the combined credits; the amount of the benefit paid will be the proportion of the totalized benefit attributable to the work performed in the paying country.

Each such agreement must be transmitted to the Congress with a report on the estimated cost and number of individuals affected and could not go into effect until 90 legislative days after both Houses of Congress had been in session, during which period the agreement could be rejected by majority passage of a simple resolution by either House. Effective upon enactment.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

I. COVERAGE—Continued

Item	Prior law	Law as amended by Public Law 95-216
C. Geographical scope—Continued	<p><i>Excludes</i> work outside the United States <i>unless</i> performed (a) by a U.S. citizen working for an American employer or for a domestic corporation's foreign subsidiary where the domestic corporation has entered into an agreement with IRS which provides coverage for all present and future employees of the subsidiary; or (b) on or in connection with an American vessel or aircraft if employment was entered into within the United States, or if the vessel or aircraft touches at a port or airport in the United States while employee is working on it.</p>	<p>The Tax Reform Act of 1976 amended the provisions of the Internal Revenue Code affecting the social security coverage of self-employed individuals outside the United States. A self-employed U.S. citizen who is (1) a bona fide resident of a foreign country for an entire taxable year, or (2) physically present in a foreign country for at least 510 days in a period of 18 consecutive months and is not a resident of the United States during the entire taxable year will have the first \$15,000 earned outside the United States excluded from gross income for social security purposes for taxable years beginning after December 31, 1975.</p>
	<p>However, an individual affected by the \$15,000 exclusion may elect not to have the exclusion apply to him in any year in which it would otherwise apply and all subsequent years; the election may not be revoked except with the consent of the Secretary of the Treasury.</p>	
	<p><i>Excludes</i> work performed by nonresident aliens temporarily admitted to the United States for certain specific purposes (generally students and exchange visitors).</p>	
	<p><i>Excludes</i> employees of foreign government or international organization, <i>except</i> that work by a U.S. citizen for a foreign government or international organization within the United States is covered as self-employed.</p>	
	<p><i>Excludes</i> work in the employ of any instrumentality of the United States if such service is covered by a retirement system established by a law of the United States.</p>	
	<p><i>Excludes</i> residents of the Philippines working in Guam on a temporary basis.</p>	
	<p><i>Covers</i> work as officer or employee of Government of Guam or American Samoa except for persons covered under retirement system established by U.S. law.</p>	
	<p><i>Covers</i> work for the District of Columbia unless performed by patients or inmates of hospitals or institutions, students in hospitals, temporary emergency workers, or members of boards, committees and councils paid on a per diem basis.</p>	
	<p><i>Covers</i> temporary or intermittent employees of Guam who are not covered under retirement system established by law of Guam unless performed in hospital or institution by patient or inmate, performed by elected officer or member of legislature.</p>	

Public Law 94-241 will extend Prouty payments (special benefits for persons age 72 or over who are not eligible for social security benefits) to the Northern Mariana Islands (NMI) effective no later than 180 days after the Constitution of the NMI has been approved by the U.S. Government and will extend the U.S. social security program to the NMI at the time the U.S. Trusteeship for the Trust Territory of the Pacific Islands terminates (or earlier if the United States and the NMI so agree). The Prouty amendment does not apply to Guam, Puerto Rico, or the Virgin Islands.

(See Retirement Test, Foreign Work Test, sec. VII, D.)

II. PROVISION RELATING TO DISABILITY

A. Nature of the provisions:

1. Benefits-----

Provides monthly benefits for disabled workers under age 65 and dependent children who are aged 18 or older who have a childhood disability meeting eligibility requirements. Benefits are computed in the same way as retirement benefits. Monthly social security benefits are payable on a reduced basis between ages 50 and 65 to disabled widows and dependent widowers of covered deceased workers. Provides hospital insurance and supplementary medical insurance for disabled workers, disabled widows and widowers, and disabled children who have received benefits on the basis of disability for 24 consecutive months.

No change.

2. Disability "freeze"-----

Provides that when an individual for whom a period of disability has been established dies, or retires, on account of age or disability, his period of disability will be disregarded in determining his eligibility for benefits and his average monthly wage for benefit computation purposes.

No change.

B. Eligibility requirements:

1. Definition-----

For benefits or for the freeze, an individual must be precluded from engaging in any substantial gainful activity by reason of a physical or mental impairment. The impairment must be medically determinable and one which can be expected to last for not less than 12 months or to result in death. A person (other than a disabled widow or widower) may be determined to be disabled only if due to this impairment he is unable to engage in any kind of substantial gainful work, considering his age, education, and work experience, which exists in the national economy even though such work does not exist in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. (For purposes of the freeze or benefits blindness is defined as: Central visual acuity of 20/200 or less in the better eye with use of correcting lens. An eye in which the visual field is reduced to 20° or less concentric contraction shall be considered as having a central visual acuity of 20/200 or less.)

A widow (or widower) can be determined to be disabled only if she has a physical or mental impairment of such a level of severity that makes it impossible for her to perform *any* gainful work (rather than substantial gainful work).

See section II.B.5. regarding earnings which indicate substantial gainful activity for the blind.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

II. PROVISIONS RELATING TO DISABILITY—Continued

Item	Prior law	Law as amended by Public Law 95-216
B. Eligibility requirements—Con.		
1. Definition—Continued		
	Individuals who are blind under the “freeze” definition and have attained age 55 will be disabled if they are unable because of such blindness to engage in substantial gainful activity requiring skill or abilities comparable to those of any gainful activity in which they have previously engaged with some regularity and over a substantial period of time. Although benefits are not terminated, no benefits will be payable for any month the blind individual engages in substantial gainful activity.	
2. Entitlement to other benefits.	A person who becomes entitled before age 65 to a benefit payable on account of old age can later become entitled to disability insurance benefits. If prior benefit was a reduced benefit, disability insurance benefits are reduced to take account of payment made for prior months.	No change.
3. Waiting period-----	An initial 5-month waiting period is required before disability insurance benefits will be paid. Benefits are payable for 6th month. However, benefits may be paid for the 1st full month of disability to a worker who becomes disabled within 60 months (for a disabled widow or widower the period is 84 months) after termination of disability insurance benefits or a period of disability.	No change.
4. Insured status (work requirement).	To be eligible an individual must— (a) (1) have at least 20 quarters of coverage in the 40 quarters ending with the quarter in which the period of disability begins; or (2) if disabled before age 31 have not less than $\frac{1}{2}$ (but not less than 6) of the quarters during the period elapsing after age 21 and up to the point of disability or, in the case of those disabled before age 24, at least $\frac{1}{2}$ of the 12 quarters ending with the quarter in which disability began. (Neither of these coverage requirements must be met by an individual who meets the definition of “blindness”; and (b) be fully insured. (See sec. V, A.)	No change.
5. Earnings which indicate substantial gainful activity and cause termination of benefits.	Provides the Secretary with specific regulatory authority to prescribe the criteria for determining when earnings derived from employment demonstrate an individual’s ability to engage in substantial gainful activity (SGA). The Secretary has published final regulations increasing the monetary amounts of the substantial gainful activity guidelines under Title II and Title XVI. Under the increased amounts, an individual’s earnings from work activities averaging in excess of \$230 per month beginning with the calendar year 1976 shall be deemed to demonstrate the ability to engage in substantial gainful activity. (However, in a notice of proposed rulemaking published January 13, 1978, the Secretary proposes to increase the earnings guidelines amounts to \$240 per month for the calendar years after 1976.)	Establishes a separate SGA level for blind disability beneficiaries. Effective for months after December 1977. The amount of earnings from work activities which indicate substantial gainful activity for disabled blind individuals shall be $\frac{1}{2}$ th of the annual exempt amount under the earnings limitation provision for retired beneficiaries aged 65 and over. For years after 1982, the SGA level for blind disability beneficiaries will be automatically adjusted to increases in average wages, as will the 65 and over retirement test amounts. The following table sets forth the new SGA level for blind disability beneficiaries:

Under regulations promulgated by the Secretary, work performed under *Special Conditions of Employment* (e.g. sheltered workshops, hospitals) may provide evidence of skills and abilities that demonstrate an ability to engage in a substantial gainful activity, whether or not such work in itself constitutes substantial gainful activity. Where an individual's earnings from work activities average \$150 to \$230 a month, consideration of the amount of his earnings together with other circumstances relating to his work activities, medical evidence and other factors shall determine whether such individual is able to engage in substantial gainful activities. However, in the case of individuals working in sheltered workshops or comparable facilities, whose activities are limited by their impairments so that their earnings average \$230 a month or less, such activities and earnings ordinarily would not establish the ability to engage in substantial gainful activity. (Note that the Secretary has issued a notice of proposed rulemaking to increase the earnings guidelines amounts to \$240 per month for calendar years after 1976.)

Monthly earnings which indicate substantial gainful activity

Year:	
1978	\$333.33
1979	375.00
1980	416.67
1981	458.33
1982	500.00

6. Trial work period----- Provides, in effect, a 12-month period for disabled beneficiaries (including disabled children but not disabled widows or widowers) who attempt to work during which their benefits will not be terminated because of work. If, after 9 months which need not be consecutive, the beneficiary has demonstrated by his earnings his ability to engage in substantial gainful activity (SGA), his benefits will be terminated the 2d month following the month his disability ceases.

No change.

If an individual medically recovers to the extent that he no longer meets the definition of disability, benefits will be terminated regardless of the "trial work" provision. Only one trial work period permitted for each period of disability for beneficiaries who qualified for benefits without a waiting period. (Secretary of HEW by regulation has provided that earnings of \$50 a month will constitute a month of "trial work.")

C. Rehabilitation----- The policy of Congress is stated that disabled persons applying for a determination of disability be promptly referred to State vocational rehabilitation agencies for necessary rehabilitation services. The act provides for deduction of benefits for refusal, without good cause, to accept rehabilitation services available under a State plan approved under the Vocational Rehabilitation Act in such amounts as the Secretary shall determine. A member or adherent of a recognized church or religious sect that relies on spiritual healing who refuses rehabilitation services is deemed to have done so with good cause.

No change.

Provides for reimbursement from social security trust funds to State vocational rehabilitation agencies for the cost of vocational rehabilitation services furnished to disability insurance beneficiaries to the end that savings will result to the trust funds as a result of rehabilitating the maximum number of beneficiaries into productive activity. The selection of beneficiaries (workers, children, widows, and widowers) to receive services shall be made in accordance with criteria formulated by the Secretary of HEW which are based upon the effect the provision of such services would have upon the trust funds. Total amount of the funds that may be made available for such reimbursement could not, in any year, exceed 1½ percent of the social security disability benefits paid in the previous year.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

II. PROVISIONS RELATING TO DISABILITY—Continued

Item	Prior law	Law as amended by Public Law 95-216
<p>D. Determination of disability:</p> <p>1. State agency administration—</p>	<p>Provides that disability determinations (including determinations that the disability has ceased) generally shall be made by State agencies under agreements with the Secretary of HEW.</p> <p>Provides that the Secretary shall enter into an agreement under which the State vocational rehabilitation agency, or other appropriate agency, shall make such determination, with respect to all individuals in the State or with respect to such class or classes as may be designated in the agreement at the State's request.</p>	<p>No change.</p>
<p>2. Federal review of determination.</p>	<p>Provides that the Secretary may, on his own motion, review any allowance of disability and reverse such allowance or make the onset date of the disability more recent.</p>	<p>No change.</p>
<p>E. Claimant appeal rights:</p> <p>1. Administrative review-----</p>	<p>Any individual dissatisfied with a State agency decision shall be entitled to a "hearing" by the Secretary if he appeals the decision within 60 days. (The legislative authority for a hearing is the basis for a regulation which requires a "reconsideration" by the State agency before there can be a "hearing" before a U.S. Administrative Law Judge (ALJ)). Recent regulations provide for the remand of cases where a hearing has been requested (informal remand) at any time before the hearing. Thus, the district office after a hearing request or the ALJ before the hearing can remand the case back to the State agency in instances where additional evidence has been produced or there are indications that it is available. Pursuant to regulations, a review of the ALJ decision by the Appeals Council may be requested if a party to the hearing is not satisfied with the decision or dismissal of the case. The Council will grant, deny, or dismiss the request for review as it decides proper. (At present, only ALJ affirmances of denials of benefits are examined by the Appeals Council.) The Appeals Council decision is the final decision of the Secretary.</p> <p>Old-age and survivors claims are subject to the same appeals procedure although State agencies are not involved.</p>	<p>Converts temporary Administrative Law Judges whose positions were created under the provisions of Public Law 94-202 for the purpose of hearing cases under title II, XVI, and XVIII of the Social Security Act, to permanent status as ALJ's under the Administrative Procedure Act. The authority for the temporary appointments would have expired in December, 1978.</p>
<p>2. Judicial review-----</p>	<p>The final decision of the Secretary may be appealed within 60 days to a U.S. district court. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive. The judgment shall be final except that it shall be subject to review in the same manner as other civil actions; in a court of appeals and in the Supreme Court under certain circumstances. The district court shall remand a case to the Secretary if he so requests before he files an answer, or the court can on its own motion remand the case to the Secretary. The Secretary can modify or affirm a remanded decision, and file with the court any modified findings of fact and decision. The judgment of the</p>	<p>No change.</p>

court shall then be final, except that it shall be subject to review in the same manner as other civil actions, i.e. circuit court of appeals and Supreme Court.

3. Attorney's fees and representation.

At the administrative level the Secretary of HEW is authorized to fix a reasonable fee for the services provided before the Social Security Administration for an applicant for social security benefits by an attorney and to pay such attorney's fee out of the applicant's past-due benefits. The amount that can be paid out of past-due benefits is limited to the smaller of (a) 25 percent of the past-due benefits; (b) the fee fixed by the Secretary; or (c) an amount agreed to by the applicant and the attorney.

No change.

A court which renders a decision favorable to a claimant for social security benefits is permitted to set a reasonable fee for the attorney who represented the claimant before the court. The fee cannot exceed 25 percent of the past-due benefits which result from the court's decision. The Secretary may certify for payments to the attorney, out of the total of the past-due benefits, the amount of the fee set by the court. Any attorney charging or receiving more than the fee set by the court is subject to a fine of up to \$500, imprisonment up to 1 year, or both.

F. Burden of proof—medical evidence..

An individual shall not be considered under a disability unless he furnishes such medical and other evidence as the Secretary may require.

No change.

(The Secretary will not generally reimburse physicians or hospitals for supplying medical evidence in support of claims for social security disability insurance benefits. The Secretary will pay for medical examinations if this is needed to adjudicate the claim).

G. Workmen's compensation offset....

When a disabled worker under age 62 qualifies for both workmen's compensation and social security disability benefits, the social security benefits payable to him and his family are reduced by the amount, if any, that the total monthly benefits payable under the two programs exceed 80 percent of his average current earnings before he became disabled. A worker's average current earnings for this purpose are the larger of (a) the average monthly earnings used for computing his social security benefits, or (b) his average monthly earnings in employment or self-employment covered by social security during the 5 consecutive years of highest covered earnings after 1950, or (c) his highest year's earnings in the period consisting of the calendar year in which he became disabled and the 5 years immediately preceding that year. Alternatives (b) and (c) are computed without regard to the limitations which specify a maximum amount of earnings creditable for social security benefits. Reductions in disability benefits are adjusted 2 years after the initial computation and thereafter at 3 year intervals to take into account increases in national average earnings. Such redetermination shall not result in any decrease in disability benefits (a passthrough of benefit increases) but if such passthrough increases the benefits to a level equalling or exceeding the benefits which would result from the redetermination, there will be no additional increase because of the redetermination. No reduction in benefits shall be made if the State workmen's compensation law or plan provides for reduction of its benefits because of entitlement to social security disability benefits.

Provides that increases in national average earnings will be based on increases in average yearly wages, rather than on increases in wages reported for the first quarter of the year, beginning with redeterminations in 1980.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

III. BENEFIT CATEGORIES

Item	Prior law	Law as amended by Public Law 95-216
A. Eligibility for benefits:		
1. Worker—old age-----	<p>Full benefit (primary insurance amount or PIA) payable at age 65 to fully insured retired worker. Payable at age 62 to fully insured retired worker, but on an actuarially reduced basis. PIA is reduced by $\frac{1}{3}$ of 1 percent for each month worker is entitled to receive a benefit before age 65—the total reduction is 20 percent if worker begins drawing benefits at age 62. The amount of the reduction is recalculated at age 65 to take account of (exclude) any months for which a worker did not get a benefit and this reduced amount is permanent, continuing after worker reaches age 65.</p> <p>In the case of a woman who is entitled to a reduced old-age insurance benefit and who is at the same time or subsequently becomes entitled to a wife's benefit, the wife's benefit would be reduced by the dollar reduction which was applicable to the old-age benefit, plus the regular reduction amount on the excess of the unreduced wife's benefit over the unreduced old-age benefit. A similar provision is applicable to men entitled to reduced old-age benefits and husband's benefits.</p> <p>For workers who do not get benefits before age 65 a "delayed retirement credit" is added to the full benefit of workers who delay retirement beyond age 65. For each month from age 65 to age 72 for which benefits are not payable because of excess earnings under the earnings test (see sec. VII), or because benefits were not elected, an increase of $\frac{1}{12}$ of 1 percent is added to the age 65 benefit.</p>	<p>Eliminates retroactive payment of monthly benefits for months before the month in which an application for benefits is filed where such retroactivity would result in permanently reduced benefits (except in cases where the benefits were disability-related or where unreduced dependent's benefits were involved).</p> <p>Provides for an increase in the delayed retirement credit for each month from age 65 to 72 for which benefits are not paid, to 3 percent per year ($\frac{1}{4}$ of 1 percent per month). Effective for workers first eligible for retirement benefits after December 1978.</p> <p>Credit for nonpayment months after age 65 will apply to workers who had received benefits for months before age 65.</p>
2. Wife and husband-----	<p>A full benefit for a wife or husband is 50 percent of spouse's primary benefit. (See No. 10 on benefits for divorced wives.)</p> <p>Full benefit is paid at age 65. Benefit also payable at age 62 to a wife or husband, but on an actuarially reduced basis; i.e., benefit is reduced by $\frac{25}{100}$ of 1 percent for each month prior to age 65. An individual who takes benefit at 62 receives 75 percent of the full benefit.</p> <p>A wife's full benefit is also payable, regardless of age, to the wife of a retired or disabled worker who has in her care a child of the worker who is under age 18 or disabled and entitled to social security benefits. There is no comparable provision for husbands.</p> <p>(On the basis of its holding in <i>Califano v. Goldfarb</i>, the Supreme Court has ruled that the provision requiring husbands to prove dependency in order to collect benefits on their wives records is constitutionally impermissible. <i>Califano v. Silbowitz</i>. See No. 3.)</p>	<p>Provides that social security dependent's benefits payable to a spouse will be reduced by the amount of any governmental (Federal, State, or local) benefit payable to the spouse based on his or her own earnings in noncovered employment. The dollar-for-dollar reduction will apply to individuals who become entitled to spouse's dependency benefits on the basis of applications filed in and after December 1977.</p> <p>An exception to the offset measure provides that the reduction will not apply to those who (1) were receiving, or were immediately eligible for, pensions from noncovered employment within the 5-year period beginning December 1977 and (2) at the time of entitlement or filing for the social security spouse's benefit could qualify for social security dependent's benefits if the law as in effect, and as being administered, in January 1977 remained in effect.</p>

The Secretary of Health, Education and Welfare, in consultation with the Justice Department Task Force on Sex Discrimination, is required to study and report on proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the social security program, and proposals to bring about equal treatment of men and women under the program. The study is due within six months of enactment.

3. Widow and widower----- Full benefit is payable at age 65 to widow or widower if the worker is either fully or currently insured. (See No. 10 on benefits for surviving divorced wives.)
Provides reduced benefits for surviving spouses receiving Government pensions. See No. 2.
- Full benefit is 100 percent of deceased worker's primary benefit. Widows or widowers may elect a reduced benefit between age 60 and 65 based on a reduction of $\frac{1}{40}$ of 1 percent for every month prior to age 65 (71.5 percent at 60; 82.9 percent at 62; 94.3 percent at 64). Benefits are, however, limited to the greater of (1) the amount the deceased worker would be getting if still alive, or (2) 82.5 percent of the deceased worker's PIA.
Widows and widowers are eligible for the deceased spouse's delayed retirement credit.
(In *Califano v. Goldfarb*, decided on March 2, 1977, the Supreme Court ruled that the provision requiring widowers to prove dependency in order to collect benefits on their wives' records was unconstitutional.)
4. Disabled widow and disabled widower. Disabled widows and widowers can qualify for reduced benefits payable as early as age 50. (See No. 10 on benefits for disabled surviving divorced wives.) Reduction between age 65 and 60 is the same as for nondisabled widows above. Between ages 50 and 60 benefits are reduced $\frac{43}{240}$ of 1 percent, for each month prior to age 60. (At age 50 benefit is 50 percent of PIA.)
(See Nos. 2 and 3.)
5. Widow or widower who remarries before age 60. A woman may qualify for benefits as a surviving spouse even though she has remarried before age 60 so long as she is not married at the time she applies for benefits. A man loses eligibility as a surviving spouse of a covered female worker if he remarries before age 60.
No change; will be reviewed by HEW study of equal treatment of men and women. (See No. 2.)
6. Widow or widower who remarries after age 60. A widow or widower who remarries after age 60 (to a person other than certain social security dependent or survivor beneficiaries) gets either an amount equal to a wife's or husband's benefit based on the deceased spouse's earnings, or a widow's or widower's benefit based on the new spouse's earnings, whichever is higher. This may result in a benefit reduction.
Provides that a widow or widower who remarries after age 60 will not have his or her benefits reduced because of remarriage, effective January 1979.
7. Surviving dependent parent. Benefit is payable at age 62 to surviving dependent parent of deceased fully insured worker. Benefit is 82.5 percent of deceased wage earner's PIA (75 percent in the case of two surviving parents) and no reduced benefit is authorized. Parent has to have been receiving at least one-half of support from worker at time of death of wage earner and filed proof of support within 2 years of death.
No change.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

III. BENEFIT CATEGORIES—Continued

Item	Prior law	Law as amended by Public Law 95-216
A. Eligibility for benefits—Continued		
8. Mother's benefit-----	Benefits are payable at any age to the widow or divorced widow of fully or currently insured deceased wage earner if she has a child of the worker in her care who is getting benefits based on his earnings record, and she is not married. Benefits are 75 percent of deceased worker's primary benefit. Her benefit cannot be based solely on a child over 18 receiving a benefit because of school attendance.	No change, but will be reviewed by HEW study of equal treatment of men and women. (See No. 2). Provides reduced benefits for mothers receiving government pensions. (See No. 2).
9. Father's benefit -----	No statutory provision for payment of benefit to a widower or divorced widower of a deceased wage earner who has a child of the worker in his care. (The Supreme Court has held in <i>Weinberger v. Wiesenfeld</i> (1975) that the lack of such a provision for the widower violates the equal protection clause of the 5th amendment in view of the existence of the mother's benefit. The Department of Health, Education, and Welfare by regulation has now established a father's insurance benefit. Father's insurance benefits are paid on the same basis as are mother's insurance benefits except that benefits are not provided for surviving divorced fathers. Federal Register, March 30, 1976, p. 13333.)	No change, but see HEW study of equal treatment of men and women, No. 2.
10. Divorced wife, husband, and widow.	Wife's or widow's benefits (equal to an amount set out in 2 and 3 above) are payable to an aged divorced woman on her former husband's earnings if he is fully insured and if she (a) had been married to her former husband for 20 years immediately before the divorce; and (b) is not married, regardless of intervening marriages. Payment of a wife's or widow's benefit to an aged divorced woman does not reduce the benefits paid to any other person on the same social security account and such wife's or widow's benefit is not reduced because of other benefits payable on the same account. Benefits for a divorced wife or a surviving divorced wife are not terminated on account of remarriage in those cases where the remarriage is to a man getting benefits as a widower or dependent parent or as a disabled child aged 18 or over. If a divorced wife or a surviving divorced wife marries an old-age insurance beneficiary, her benefits are terminated but she is immediately eligible for a wife's benefit on her new husband's account. No statutory provision for payment of benefit to aged divorced husband or aged or disabled surviving divorced husband. (In 1977, in <i>Oliver v. Califano</i> , a Federal District Court declared unconstitutional the provision of benefits for aged divorced wives but not aged divorced husbands. This decision was not appealed, and SSA is preparing to pay benefits to aged divorced husbands on the same basis as benefits are now paid to aged divorced wives.)	Reduces the duration of marriage requirement for entitlement to benefits as an older divorced wife or surviving divorced wife from 20 years to 10 years, effective for months after December 1978. Provides reduced benefits for divorced wives and widows receiving government pensions. (See No. 2.) Divorced widows are eligible for the deceased spouse's delayed retirement credit. No change, but see HEW study of equal treatment of men and women, No. 2.

11. Children.....

A child's benefit (equal to 50 percent of the PIA for the child of a retired or disabled worker, or 75 percent of the PIA for the child of a deceased worker) is paid to a "dependent" natural, adopted or stepchild of a worker entitled to old-age or disability benefits, or of a worker who died a fully or currently insured individual, if the child is unmarried and either—

(a) is under age 18, or

(b) is under a disability which began before age 22 (*see* definition of a disability),

(c) is age 18 or over and under age 22 if he is a full-time student.

Benefits to a student who has not received or completed the requirements for a degree from a 4-year college or university would continue through the end of the school term in which his 22d birthday occurs. If the educational institution in which he is enrolled is not operated on a semester or quarter system, benefits would continue until the month following the completion of the course or 2 months after the month he attains age 22, whichever occurs first.

A child whose benefits have terminated because he has attained age 18 may become reentitled upon filing a new application if he is a full-time student and has not attained age 22, and has not married since he was last entitled to benefits, unless the marriage was void or annulled.

A wife, widow, widower, or surviving divorced mother will not get benefits if the only child in his or her care has attained age 18 and is getting benefits solely because he or she is a student.

Student and institution defined.—A full-time student is defined as an individual who is in full-time attendance as a student at an educational institution; whether or not the student was in full-time attendance is determined by the Secretary in the light of the standards and practices of the school involved. Specifically excluded is a person who is paid by his employer while attending school at the request of his employer. Benefits are provided for any period of 4 calendar months or less in which a person does not attend school if the person shows to the satisfaction of the Secretary that he intends to continue in full-time school attendance immediately after the end of the period, or does in fact return.

Definition of child.—Whether an illegitimate child will meet the definition of "child" (and thus will be presumed dependent) is based on the laws applied in determining the devolution of intestate personal property in the State in which the worker is domiciled. Similarly, if the parent wage earner went through a ceremonial marriage in good faith but it was legally invalid the child would meet the definition.

An illegitimate child who does not qualify as a "child" under the preceding provisions, will qualify if, at the time of the wage earner's entitlement to old-age or disability benefits, or at the time of his death, (1) he had been acknowledged in writing to be the wage earner's child, or (2) the wage earner had been ordered by a court to contribute to his support, or (3) a court had determined the wage earner to be his father, or (4) the Secretary finds, upon satisfactory evidence, that he was the child of the wage earner (but in this instance he must have been living with or receiving contributions for his support from the wage earner).

No change.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

III. BENEFIT CATEGORIES—Continued

Item	Prior law	Law as amended by Public Law 95-216
A. Eligibility for benefits—Continued		
11. Children—Continued	<p>(The Supreme Court decision in <i>Jimenez v. Weinberger</i> ruled that such an illegitimate child of a disabled worker can get benefits based on the worker's earnings if the relationship and/or living with or support requirements in the statute are met at the time the child applies for benefits instead of before the worker becomes disabled, as the statute provides. The Department of Health, Education, and Welfare determined that the decision should also apply to the child of a retired worker.)</p> <p>The statute provides that benefits payable to illegitimate children who can qualify for benefits even though they cannot inherit father's intestate property cannot exceed the difference between the total amounts payable to other people on the same account and the maximum monthly amount payable on that account. (The Supreme Court declared this provision unconstitutional on the grounds that it violates the equal protection clause of the 14th Amendment, in <i>Davis v. Richardson</i>, 1972).</p> <p><i>Dependency.</i>—A child is deemed dependent upon his parent or adopting parent unless the parent was not living with or contributing to the child's support and (1) the child is neither the legitimate nor adopted child of the individual, or (2) the child has been adopted by someone else. (Certain illegitimate children are considered legitimate for purposes of this provision.) A child is deemed dependent on a stepfather or stepmother if the child was living with or receiving at least ½ his support from such stepparent. Benefits are payable to a child who is adopted by an old-age or disability insurance beneficiary already in payment status if the following conditions are met:</p> <p>(1) The child lived with the worker in the United States for the year before the worker became disabled or entitled to an old-age or disability insurance benefit;</p> <p>(2) The child received at least ½ of his support from the worker for that year;</p> <p>(3) The child was under age 18 at the time he began living with the worker; and</p> <p>(4) The adoption was decreed by a court of competent jurisdiction within the United States.</p> <p>Other provisions may apply where the adopted child is the worker's grandchild—(see 11 below).</p> <p>A child who was born in the 1-year period during which he would otherwise be required to have been living with and receiving at least ½ of his support from the beneficiary would be deemed to meet the living-with and support requirements if he was living with the beneficiary in the United States and receiving at least ½ of his support from the beneficiary for substantially all of the period occurring after the child was born.</p>	Deletes provision from statute.
12. Grandchildren-----	Benefits are provided on the same basis as children's benefits to the grandchildren or stepgrandchildren of retired, deceased, or disabled workers under the following conditions:	No change.

(1) The child's natural or adoptive parents are dead or disabled; or

(2) The child was adopted by the worker's surviving spouse after the worker's death in an adoption decreed by a court of competent jurisdiction within the United States and the child's natural or adoptive parents were not living in the same household and making regular contributions toward the child's support at the time of the worker's death.

A child shall be deemed dependent upon his grandparent or stepgrandparent if:

(a) The child lived with the worker in the United States for the year before the worker became disabled, or died, or entitled to an old-age or disability insurance benefit;

(b) The child received at least ½ of his support from the worker for that year; and

(c) The child was under age 18 at the time he began living with the worker.

A child who was born in the 1-year period during which he would otherwise be required to have been living with and receiving at least ½ of his support from the beneficiary would be deemed to meet the living-with and support requirements if he was living with the beneficiary in the United States and receiving at least ½ of his support from the beneficiary for substantially all of the period occurring after the child was born.

When social security beneficiaries adopt grandchildren, the child can receive benefits without the requirement that the child must have lived with and been supported by the social security beneficiary for the year before the beneficiary became disabled or became entitled to old-age or disability benefits. The child must, however, have lived with and been supported by the beneficiary for a year before the child applies for benefits.

13. Dependency of husband or widower.

The statute provides that husband's and widower's benefits are payable only to a husband or widower who was receiving at least ½ of his support from his wife at the time she became disabled, retired, or died.

The statute does not require women to meet this test. (In *Califano v. Goldfarb* the Supreme Court ruled that the provision requiring widowers to prove dependency in order to collect benefits on their wives' earnings violates the due process clause of the 5th Amendment. The decision in *Califano v. Silbowitz* followed this reasoning with respect to dependency requirements for husbands.)

Deletes dependency requirement provision from statute.

Provides reduced benefits for spouses receiving Government pensions. See No. 2.

14. Duration of relationship of widow, widower, and stepchildren.

In order for a widow, widower, or stepchild to obtain benefits based on a deceased worker's earnings, the relationship generally must have existed for at least 9 months. (This requirement does not apply to the surviving widow or widower if the couple has a child, has adopted a child or if the surviving spouse is actually or potentially entitled to benefits on the earnings record of a previous spouse.) The requirement is deemed to be met in the case of a worker's death by accidental means or if death occurred while he was on active duty in one of the uniformed services unless the Secretary of HEW determines that at the time the marriage occurred the worker could not reasonably have been expected to live for 9 months.

No change.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

III. BENEFIT CATEGORIES—Continued

Item	Prior law	Law as amended by Public Law 95-216
A. Eligibility for benefits—Continued		
15. Lump sum death benefit...	A benefit of \$255 is paid to the surviving spouse who was living in the same household of a fully or currently insured worker at the time of death. Where no eligible spouse survives, payment of the lump-sum benefit can be made directly to the funeral home for any unpaid burial expenses upon the request of the person who assumed responsibility for those expenses, or the benefit can be paid as reimbursement to the person who paid the burial expenses. If no one has assumed responsibility for the funeral expenses within 90 days after the death of the insured individual, and the expenses remain unpaid, the funeral home may receive direct payment after such 90 days have elapsed. Application for the lump-sum death benefit must be filed within 2 years after the death. This filing period may, however, be extended under certain conditions.	No change.

B. Major benefit termination events under law as amended by Public Law 95-216:

Occurrence of this event	Terminates these benefits															
	Retire- ment	Worker's dis- ability	Wife's	Di- vored wife's	Hus- band's	Child under 18	Child age 18-22 full-time student	Dis- abled child 18 or over	Wid- ow's	Surviv- ing di- vored wife	Wid- ow's	Moth- er's (wid- ow)	Mother's (surviv- ing di- vored mother)	Par- ent's	Based on disability	
															Wid- ow's	Wid- ow's
Attainment:																
Of age 18 and not a full-time student or disabled.						X										
Of age 22 and not disabled since before age 22.							X									
Of age 65.		X ¹														
Not in full-time school attendance.							X									
Cessation of disability:																
Of worker getting disability benefit.		X	X	X	X	X	X	X								
Of beneficiary.								X							X	X
Death:																
Of worker.	X	X	X ²	X ²	X ²											
Of beneficiary other than worker.			X	X	X	X	X	X	X	X	X	X	X	X	X	X
Divorce or annulment (final decree).			X ³		X											

Entitlement:																				
To retirement or disability insurance benefit based on primary insurance amount equal to or exceeding ½ the worker's primary insurance amount.	-----	×	×	×	-----															
To retirement insurance benefit equal to or exceeding amount of survivors benefit.	-----				-----	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
To widow's insurance benefit.	-----				-----					×	×	-----								
Marriage or remarriage	-----		×	×	-----	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×
No child of worker under 18 or 18 or over and disabled entitled.	-----	×	×	×	-----	×	×	×	×	×	×	×	×	×	×	×	×	×	×	×

¹ Retirement insurance benefit payable instead.
² Widow's or widower's benefits usually payable.
³ Except where wife had attained age 62 at the time of the divorce and her marriage to the worker had been in effect for 10 years immediately preceding the effective date of the final divorce.
⁴ Under certain circumstances marriage to another beneficiary does not terminate benefits.
⁵ Marriage before age 60 terminates widow's and widower's benefits based on disability; marriage after age 60 does not terminate such benefits.
⁶ Unless wife is at least age 63, or is at least age 62 and has elected to receive reduced benefits.

IV. BENEFIT AMOUNTS

Item	Prior law	Law as amended by Public Law 95-216
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A. Average monthly wage----- A worker's benefit amount is determined from the benefit table (in or deemed to be in the law) which relates average monthly wage amounts to primary benefits (PIA's).
 In general, an individual's "average monthly wage" is computed by dividing the total of his creditable earnings for his "benefit computations years" by the number of months involved. Excluded from this computation are all months and all earnings in any year any part of which was included in a period of disability under the disability "freeze" (except that the months and earnings in the year in which the period of disability begins or ends may be included if the resulting benefit would be higher).
 The average monthly wage in retirement cases is computed on the basis of the number of years elapsing after 1950 (or after attainment of age 21, if later) and up to the year the worker attains age 62 for women and for men age 62 in 1975 or later. For men age 62 in 1974, the elapsed years end at age 63, for men age 62 in 1973, they end at age 64, and for men age 62 in 1972 and before, they end at age 65. This is regardless of when, before age 21, the person started to work or when, after age 62, he files application for benefits. The lowest 5 years of earnings are dropped out from the computation of the average wage. The number of years used to compute benefits for an individual attaining age 62 in 1977 would be 21. The number increases each year, reaching 35 for persons attaining 62 in 1991 and thereafter. In death and disability cases the number of years is determined by the date of death or disability.

For workers who become eligible or die after 1978 earnings will be indexed by wages. Then a new benefit formula in the law will be applied to the average indexed monthly earnings. Apart from the average indexed monthly earnings, the computation of average wages for benefit purposes generally follows prior law.
Wage indexing.—A worker's earnings in each year after 1950 will be updated or "indexed" to the 2d year before the worker initially becomes eligible for benefits. The year of eligibility for this purpose is the year the worker attains age 62, the year of onset of disability, or the year he dies.
 Specifically, each year's earnings will be indexed by multiplying the earnings by the ratio of average wages in the 2d year before initial eligibility to the average wages in the year being updated. For example, if a worker earned \$3,000 in 1956, and retired at age 62 in 1979, the \$3,000 would be multiplied by the ratio of average wages in 1977 (\$9,779) to average annual wages in 1956 (\$3,540), as follows: $\$3,000 \times (\$9,779 \div \$3,540) = \$8,287$. Thus, while the worker's actual earnings for 1956 were \$3,000, his relative or indexed earnings would be \$8,287.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

IV. BENEFIT AMOUNTS—Continued

Item	Prior law	Law as amended by Public Law 95-216
A. Average monthly wage—Continued	<p>The earnings used in the computation would be earnings in the highest years. Earnings in years prior to attainment of age 22 or after attainment of retirement age could be used if they were higher than earnings in intervening years. The "benefit computation" years can never be less than 2, or less than 5 in retirement cases after 1960.</p> <p>In those cases where a larger benefit would result (because the individual's best earnings were in years before 1951), the number of years would be those elapsing after 1936 (or age 21, if later), rather than 1950. A mechanism appears in the law to credit wages for benefit purposes for the years 1937-50 so that a manual examination of records is not necessary. This method is available for persons who attained age 22 before 1938.</p>	<p>For workers who become eligible for benefits or die after 1978, eliminates the option of basing benefits on earnings after 1936 except where the use of such earnings under present law for the month before the new system went into effect (January 1979) plus any cost-of-living increase beginning with age 62, onset of disability or death up to entitlement produces a higher benefit than the wage-indexed benefit using post-1950 earnings.</p> <p>Provides a comparable wage crediting system for 1937-1950 wages for persons who attained age 21 after 1936.</p>
B. Benefit formula-----	<p>The law provides a benefit table which is used in determining benefit amounts for both future beneficiaries and those now on the benefit rolls.</p> <p>Though not stated in the law, the formula that roughly approximates the primary insurance amounts in the table, effective January, 1978 is:</p> <ul style="list-style-type: none"> 145.90 percent of first \$110 of AME, 53.07 percent of next \$290 of AME, 49.59 percent of next \$150 of AME, 58.29 percent of next \$100 of AME, 32.42 percent of next \$100 of AME, 27.02 percent of next \$250 of AME, 24.34 percent of next \$175 of AME, 22.54 percent of next \$100 of AME, 21.18 percent of next \$100 of AME, 20.00 percent of next \$100 of AME. 	<p>Establishes a new benefit formula for individuals who become eligible for old-age benefits (regardless of application) after 1978, whose disability occurred after 1978, or who die before eligibility after 1978.</p> <p>The formula for those who attain age 62, become disabled or die in 1979 is 90 percent of the first \$180 of the average indexed monthly earnings (AIME), plus 32 percent of AIME over \$180 through \$1,085, plus 15 percent of AIME above \$1,085. For those who become eligible for benefits or die in years after 1979, the percentages in the formula will remain constant but the applicable amounts of AIME (bend points) will be increased in proportion to increases in average wages, with the results rounded to the nearest \$1.</p> <p>For individuals eligible for benefits before 1979 (that is, who were insured and reached age 62, established a disability offset, or died before 1979), benefits will be computed on nonindexed earnings on the basis of the provisions of existing law in effect the month before (December 1978) the new system goes into effect.</p> <p>For beneficiaries on the rolls cost-of-living benefit increase procedures would operate as they do under existing law.</p> <p>Transition guarantee.—For the period 1979-83 individuals becoming first eligible for old-age benefits would be guaranteed the higher of the PIA under wage-indexing or under the benefit table in</p>

the law in December 1978. The benefit derived from the table in the law in December 1978 will not be increased by the cost-of-living mechanism until the later of first eligibility or 1979; and earnings after attainment of eligibility cannot be used to increase benefits. However, the wage-indexed benefit can be recomputed to take account of additional earnings. The transition guarantee does not apply to disability and death cases. In these situations earnings for individuals who die or become disabled after 1978 will be wage indexed.

Provides that in general cost-of-living increases will apply only to benefits of individuals on the social security rolls.

C. Cost of living increases-----

If the Secretary determines that in the 1st quarter of the year (January-March) the cost of living (CPI) has exceeded by 3 percent or more the level for the 1st quarter of the most recent preceding year in which a cost-of-living benefit increase has gone into effect, or, if later, the most recent calendar quarter in which an *ad hoc* increase became effective, a benefit increase equal to the percentage increase in the CPI between the 2 quarters (rounded to the nearest $\frac{1}{10}$ of 1 percent) is effective for June of the year in which the determination is made (payable in the July checks). The increase is effective for beneficiaries on the rolls and for future beneficiaries. (It would increase each percentage figure in the benefit formula by the percentage increase.) There is no cost-of-living increase if in the preceding year a law had been enacted providing a general benefit increase or if in the preceding year such a general benefit increase had become effective.

Cost-of-living increases to beneficiaries receiving actuarially reduced benefits are reduced for the number of months from the month of the increase to age 65. Benefit increases at age 65 and later are based on the unreduced benefit (PIA).

Modifies the mechanism relating to benefit increases so that the across-the-board percentage increase will apply to the actual benefit amount being paid rather than to the primary insurance amount prior to any actuarial reduction. Under this provision, all beneficiaries on the rolls at the time of an increase will get the same percentage increase in their benefits.

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D. Creditable earnings-----

The maximum of annual earnings taxed and creditable for benefit purposes (the wage or earnings base) was set by Congress on an *ad hoc* basis up until legislation in 1972 provided for automatic increases in the wage base in proportion to the increases in average covered wages. No increase in the wage base is authorized unless in the preceding year there has been a cost-of-living benefit increase.¹ The maximum amount of creditable earnings 1937 to date is shown in section VI.

The mechanism for increasing the wage base was modified by the annual reporting legislation (Public Law 94-202) enacted January 2, 1976. Under previous law any new determination of such automatic increases was based on the increase in average taxable wages paid in the first calendar quarter of the year in which the new determination is being made. For instance, by November 1976 the Secretary would have had to promulgate a new earnings base for 1977 based on the increase between the 1st quarter of 1976 over the 1st quarter of 1975. Under the law as modified by Public Law 94-202, total annual wages, rather than first-quarter taxable wages, will be used in making automatic increase determinations.

¹ The automatic adjustment provisions under the 1972 amendments were modified by laws passed in 1973 and 1976. These modifications are reflected in the "prior law" column.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

IV. BENEFIT AMOUNTS—Continued

Item	Prior law	Law as amended by Public Law 95-216
D. Creditable earnings—Continued	<p>In determining the wage base for each year 1977-80, the amount of annual average wages in any given year 1978 or prior, as required for the determination, will be deemed to be 4 times the amount of average taxable wages in the 1st quarter of the given year. There will also be a 1-year shift in the measuring period for determining the increases for 1977 and later, since annual wage data will not become available until about 1 year later than 1st-quarter data under the quarterly reporting system. (Although annual reporting does not begin until 1978, the 1-year shift in the measuring period begins with the 1976 determination.) For example, the base for 1977 was based on the increase in annual average wages from 1974 (deemed to be 4 times average taxable wages for the 1st quarter of 1974) to 1975 (deemed to be 4 times average taxable wages for the first quarter of 1975). Because of this 1-year shift, the percentage increase in average wages to be used in the determination of the base and the exempt amount for 1977 is the same as the percentage used in establishing the corresponding amounts for 1976. Thus, the increase in the wage base from 1976 to 1977 with appropriate rounding—\$15,300 to \$16,500—is the same percentage increase, about 8%, as the increase from 1975 to 1976—\$14,100 to \$15,300. For 1978, the increase to \$17,700 was based on the 1976 1st quarter measured against the 1975 1st quarter, expressed in annual terms.</p> <p>The base for any year after 1980 will be based on the increase in annual average wages from the year preceding the last year in which such a determination was made to the year immediately preceding the year in which a new determination is being made.</p>	<p>Provides <i>ad hoc</i> base increases for the years 1979 through 1981. See Section VI E.</p>
E. Maximum monthly primary insurance amount (PIA), June 1978.	<p>Men and women retiring at 65 in 1978: \$489.70 (\$688 average monthly wage).</p> <p>Young disabled worker or survivors (excluding earnings in the year of death): \$662.80 (\$1,325 average monthly wage).</p>	
F. Minimum monthly primary insurance amount, June 1978.	<p>\$121.80 (average monthly wage of \$76 and below) increased by the cost of living.</p>	<p>Freezes the minimum benefit, effective January 1979, for future beneficiaries at an amount equal to the minimum benefit in the December 1978 benefit table, rounded to the nearest \$1 (\$122). Benefits based on the minimum would be kept up to date with increases in the cost of living beginning with the year the person becomes entitled to benefits. However, for workers and aged widows and widowers, benefits based on the minimum will be kept up to date after the earlier of: (a) the first year the worker or aged widow(er) is paid part or all of the benefits to which he is entitled for that year, after application of the retirement test; or (b) the year of attainment of age 65.</p>

G. Special minimum monthly primary insurance amount.

Maximum \$180. Amount is computed by multiplying \$9.00 by the number of "years of coverage" in excess of 10 years up to 30 years. In general, a year of coverage is a year in which the worker has covered earnings equal to at least one-fourth of the maximum contribution and benefit base for that year. The special minimum is paid only if it exceeds the monthly primary amount computed otherwise. The special minimum is not increased by the cost of living.

Maximum \$230. Increases the \$9.00 amount to \$11.50. Provides for increases in the special minimum by the cost of living. Effective January 1979.

H. Maximum monthly family benefit, June 1978.

Men and women retiring at age 65 in 1978..... \$856. 40
Young disabled or survivor (excluding earnings in the year of death)..... 1, 159. 80

Specifies the family maximum benefit formula in the law and maintains the same relationship to PIA's as provided in prior law—ranging from 15 percent to 188 percent of the PIA. In 1979 the family maximum will be equal to 150 percent of the PIA up to \$230, plus 272 percent of PIA over \$230 through \$332, plus 134 percent of PIA over \$332 through \$433, plus 175 percent of PIA over \$433.

Although not specified in the law the formula underlying the benefit table in the law on June 1977 for the family maximum is 150 percent of PIA's up to \$231.20. It gradually increases to 188 percent of a PIA of \$331.60 and then declines to 175 percent of PIA's for \$435. 10 and above.

In the future the dollar amounts (bend points) in the above formula will be increased in proportion to increases in average annual wages with the results rounded to the nearest \$1.

I. Special benefits for uninsured individuals of advanced age (Prouty).

Under an amendment passed in 1966, persons attaining age 72 before 1968 who had no covered employment or less than 3 quarters of coverage, and who were residents of the United States or, if aliens, had resided in the United States for the 5 years preceding application, were made eligible for special payments financed from general revenues.

No change.

The monthly payment amount is \$83.60 for an eligible individual or \$125.50 if both husband and wife are eligible (the payment is automatically adjusted to future increases in the cost of living). The amount of the special payment is reduced by the amount of any pension, retirement benefit or the annuity the person (or in the case of a married couple, either the husband or the wife) is eligible to receive under any Government pension system, including the social security system. These payments are suspended for months in which cash payments are made under public assistance.

This payment, is allocated so that the husband is paid two-thirds of it and the wife is paid one-third.

J. Recomputations.....

After a person has become entitled to benefits, changes in his benefit amount required on account of his continued work and earnings are generally processed automatically (i.e., without the need for an application) if they will increase his benefit.

Provisions for recomputing PIA's are largely the same as those in prior law. For recomputations of PIA's based on average indexed monthly earnings, the benefit formula applied will be the one used in computing the worker's initial PIA, or, for those to whom the transitional provisions apply, the one that would have been used in computing the initial PIA if the "guarantee" PIA had not been higher. Prior law recomputation provisions will continue to apply for workers who become eligible for old-age benefits, have an onset of disability, or die before

An automatic recomputation of the average monthly wage will be made:

(1) to include earnings paid in or after the year of entitlement to benefits. Such increases are effective with January of the year following the year the earnings were derived (or, in death cases, with the month of death) but in no event earlier than January 1966.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

IV. BENEFIT AMOUNTS—Continued

Item	Prior law	Law as amended by Public Law 95-216
J. Recomputations—Continued	<p>(2) to include earnings paid in or after the year of entitlement to benefits and prior to 1966 provided the person is deemed to have become entitled before January 2, 1966, to a recomputation of benefits under the law in effect prior to July 30, 1965. The effective date of such increases varies but may be as early as July 1963.</p> <p>(3) in death case, to include railroad earnings that could not be to used during the insured person's lifetime because he was eligible for or entitled to benefits payable under the Railroad Retirement Act. Such increases are effective with the month of death. Any recalculation of a worker's benefit to correct a computation error would also be automatic.</p> <p><i>Automatic adjustment of the reduction factor (see sec. III, A-1).</i></p> <p><i>Automatic increases on account of delayed retirement.</i>—An old-age beneficiary who claims no benefits prior to age 65 and thereafter has benefits withheld under the retirement test is entitled to have his benefit increased by a credit equal to $\frac{1}{2}$ of 1 percent for each full month of withholding. Increases are effective in January of the year following the year the credits were earned, except that credits earned in the year of attainment of age 72 are effective in the month of such attainment.</p> <p><i>Other recomputations and recalculations.</i>—Provides several recomputations and recalculations of limited applicability.</p>	<p>1979. However, for an individual whose PIA is computed under the transitional provisions, earnings in and after the year of attainment of age 62 or onset of disability, or death cannot be used for purposes of recomputing the "guarantee" PIA. (See B above for transitional guarantee.)</p> <p>Increases the delayed retirement increment to $\frac{1}{4}$ of 1 percent for each full month that benefits are withheld (3 percent annual credit). This change is effective for workers reaching age 62 in or after 1979. The credit for nonpayment months after age 65 will apply to workers who had received benefits for months before age 65. Effective January 1979.</p> <p>The delayed retirement credit that workers receive under prior law will also be payable to their surviving spouses receiving widow's or widower's benefits. (In the future, surviving spouses of workers entitled to the 3 percent delayed retirement credit will also receive the increased credits.) Effective for months after May 1978.</p>

V. INSURED STATUS

A. Quarter of coverage defined-----	<p>Quarter in which individual received at least \$50 in wages or was credited with at least \$100 of self-employment income. An agricultural worker is credited with a quarter of coverage for each \$100 of cash wages paid during a year, to a maximum of four quarters of coverage in a year.</p>	<p>Changes the "quarter of coverage" definition so that after 1977 all workers will receive a quarter of coverage for each \$250 of wages paid in a year or of self-employment income credited in a year. No more than four quarters of coverage can be credited in a year. The amounts measuring a quarter of coverage will increase automatically each year to take account of increases in average wages.</p>
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B. Fully insured.....	<p>To be fully insured an individual must have:</p> <ol style="list-style-type: none"> (1) 40 quarters of coverage; or (2) 1 quarter of coverage (acquired at any time after 1936) for each calendar year elapsing after 1950, (or age 21, if later) and up to the year in which he or she attains age 62 or dies, but not less than 6 quarters; or (3) 6 quarters of coverage if individual died before 1951. <p><i>Fully insured status provides benefits for—</i></p> <ol style="list-style-type: none"> (1) a retired worker age 62 or over, including eligible wife, child, or dependent husband; (2) disabled worker under age 65 provided the worker has 20 quarters of coverage out of the 40-quarter period ending with quarter in which the disability began, including eligible wife or husband and children; or, if disabled before age 31, not less than ½ (but at least 6) of the quarters elapsing after age 21 and up to the date disability began; (3) a worker meeting the definition of blindness in the law (<i>See</i> sec. II, B); (4) surviving eligible widow or widower if they are age 60 or older; surviving eligible widow or widower if caring for child under age 18 or disabled; eligible children; or eligible parent or deceased wage earner; (5) lump-sum death benefit. 	No change.
C. Currently insured.....	<p>To be currently insured a person must have at least 6 quarters of coverage during the full 13-quarter period ending with the quarter in which he died, became entitled to disability benefits or became entitled to retirement benefits.</p> <p><i>Currently insured status provides benefits for:</i></p> <ol style="list-style-type: none"> (1) eligible widow or widower if caring for child under 18 or disabled; and to eligible children; (2) lump-sum death benefit. 	No change.
D. Transitionally insured.....	<p>A person may be insured with fewer than 6 quarters of coverage under transitional insured status if he attained age 72 before 1969 and has at least 1 quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 up to the year he attains age 62, with a minimum of 3 quarters of coverage.</p> <p><i>Transitionally insured status provides benefits to:</i></p> <ol style="list-style-type: none"> (1) worker who attained age 72 before 1969 and has less than 6 quarters of coverage; (2) a wife who attained age 72 before 1969, of a person entitled to retirement insurance; (3) a widow who attained age 72 before 1969. 	No change.
E. Special benefit to uninsured (Prouty).	<i>See</i> sec. IV, item H.	No change.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

VI. FINANCING

Item	Prior law	Law as amended by Public Law 95-216
A. Contribution rate-----	<p>The combined Federal old-age, survivors and disability insurance contribution rate for 1977 was equal to 9.9 percent of taxable earnings (4.95 percent each from employer and employee). The combined employee-employer contribution rate was scheduled to increase to 11.90 percent in 2011. The OASDI contribution rate for self-employed individuals was 7 percent of net earnings.</p> <p>In 1977, the old-age and survivors insurance trust fund (OASI) received an amount equal to 8.75 percent of taxable wages (4.375 percent each from the employer and the employee), plus 6.185 percent of self-employment income from which fund benefits and administrative expenses for the OASI program are to be paid. The rates were scheduled to be 8.7 percent for employees and employers combined, and 6.15 percent for the self-employed in 1978.</p> <p>In 1977, the disability insurance trust fund (DI) receives an amount equal to 1.15 percent of taxable wages (0.575 percent each from the employer and employee), plus 0.815 percent of self-employment income from which benefits and administrative expenses are paid for the disability insurance program. These amounts were scheduled to be 1.20 percent for employees and employers combined, and 0.85 percent for the self-employed in 1978.</p>	<p>Revises the schedule of social security tax rates established in prior law and provides for increases in the OASDI contribution rate to an ultimate combined rate of 12.40 percent (6.20 percent each for employees and employers) in 1990.</p> <p>Tax rates for the self-employed are adjusted to restore the original level of one and one-half times the employee rate for the OASDI portion of the payroll tax, effective 1981.</p> <p>Reallocates a substantial allotment of program income to the disability trust fund. (See following table.)</p>

The following table shows the OASDI contribution rates and wage bases in effect since the inception of the program:

Contribution rates and maximum taxable amount of annual earnings

Calendar years	Maximum amount of taxable annual earnings	Contribution rates (percent of taxable earnings)					
		Employees and employers, each			Self-employed		
		OASDI	OASI	DI ¹	OASDI	OASI	DI
Past experience:							
1937-49	\$3,000	1.000	1.000				
1950	3,000	1.500	1.500				
1951-53	3,600	1.500	1.500		2.2500	2.2500	
1954	3,600	2.000	2.000		3.0000	3.0000	
1955-56	4,200	2.000	2.000		3.0000	3.0000	
1957-58	4,200	2.250	2.000	0.250	3.3750	3.0000	0.3750
1959	4,800	2.500	2.250	.250	3.7500	3.3750	.3750
1960-61	4,800	3.000	2.750	.250	4.5000	4.1250	.3750
1962	4,800	3.125	2.875	.250	4.7000	4.3250	.3750
1963-65	4,800	3.625	3.375	.250	5.4000	5.0250	.3750
1966	6,600	3.850	3.500	.350	5.8000	5.2750	.5250
1967	6,600	3.900	3.550	.350	5.9000	5.3750	.5250
1968	7,800	3.800	3.325	.475	5.8000	5.0875	.7125
1969	7,800	4.200	3.725	.475	6.3000	5.5875	.7125
1970	7,800	4.200	3.650	.550	6.3000	5.4750	.8250
1971	7,800	4.600	4.050	.550	6.9000	6.0750	.8250
1972	9,000	4.600	4.050	.550	6.9000	6.0750	.8250
1973	10,800	4.850	4.300	.550	7.0000	6.2050	.7950
1974	13,200	4.950	4.375	.575	7.0000	6.1850	.8150
1975	14,100	4.950	4.375	.575	7.0000	6.1850	.8150
1976	15,300	4.950	4.375	.575	7.0000	6.1850	.8150
1977	16,500	4.950	4.375	.575	7.0000	6.1850	.8150
1978	17,700	5.050	4.275	.775	7.1000	6.0100	1.0900
Changes scheduled in prior law:							
1979-80	(²)	4.950	4.350	.600	7.0000	6.1500	.8500
1981-85	(²)	4.950	4.300	.650	7.0000	6.0800	.9200
1986-2010	(²)	4.950	4.250	.700	7.0000	6.0100	.9900
2011 and later	(²)	5.950	5.100	.850	7.0000	6.0000	1.0000
Changes scheduled by P.L. 95-216:³							
1979	22,900	5.080	4.330	.750	7.0500	6.0100	1.0400
1980	25,900	5.080	4.330	.750	7.0500	6.0100	1.0400
1981	29,700	5.350	4.525	.825	8.0000	6.7625	1.2375
1982-84	(⁴)	5.400	4.575	.825	8.0500	6.8125	1.2375
1985	(⁴)	5.700	4.750	.950	8.5500	7.1250	1.4250
1986-89	(⁴)	5.700	4.750	.950	8.5500	7.1250	1.4250
1990 and later	(⁴)	6.200	5.100	1.100	9.3000	7.6500	1.6500

¹ There is no separate tax for disability insurance but the amounts indicated are allocated from the OASDI tax under law.

² Subject to automatic increase. See VI, E for estimated amount through 1981.

³ P.L. 95-216 provided for a reallocation of 0.1 percent, each, for employees and employers, and for the self-employed, of a previously scheduled HI tax rate increase of 0.2 percent, each, to the OASDI

program and for a revised allocation of OASDI income to the DI program. However, the overall OASDI tax rates for 1978 for employees and employers, each, and for the self-employed (and the wage base) are the same under P.L. 95-216 as scheduled under prior law.

⁴ Subject to automatic increase. See VI, E for estimated amount through 1987.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

VI. FINANCING—Continued

Item	Prior law	Law as amended by Public Law 95-216
B. Allocation between OASI and DI trust funds.	The old-age and survivors insurance trust fund (OASI) receives all OASDI tax contributions other than those allocated for the disability insurance program. The allocation to the disability insurance program is scheduled to increase in future years. A separate tax and fund is established for the hospital insurance program.	A substantial increase in the allocation to the disability insurance trust fund for the near term is shown in the above table (sec. VI, A.).
C. Board of trustees-----	<p>These funds are administered by a board of trustees consisting of the Secretary of the Treasury, as Managing Trustee, the Secretary of Labor and the Secretary of Health, Education, and Welfare, all ex officio (with the Commissioner of Social Security as Secretary).</p> <p>The board of trustees is required to send a report on the operations and status of the trust funds to the Congress by April 1 of each year. This report must contain status of the funds during preceding fiscal year and expected operation during next 5 fiscal years including an analysis of benefit disbursements made from OASI fund to disabled beneficiaries. In addition, the trustees are required to (1) report immediately to Congress when the board determines that the amount in any of the funds is unduly small; (2) recommend administrative improvements to effectuate proper coordination of OASI and the Federal-State unemployment compensation program; and (3) review general policies of managing trust funds.</p>	No change.
D. Investment of the trust funds-----	It is the responsibility of the Managing Trustee to provide that the portion of the trust fund not needed for current withdrawals shall be invested only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Also authorized is the issuance at par of public debt obligations for purchase by the trust funds. Such obligations must have maturities fixed with due regard for the needs of the trust funds and they must bear interest equal to the average market yield 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 4 years from the end of such calendar month. (In fiscal 1976 the effective annual rate of interest earned by the assets of the trust fund was 6.8 percent.) The Managing Trustee is directed to purchase special obligations, but may purchase other interest-bearing obligations of the United States when he determines that the purchase of such obligations is in the public interest.	No change.

E. Maximum taxable amount of earnings.

\$17,700 in 1978. In the year after an automatic benefit increase becomes effective (*see* IV,C), the taxable wage base will automatically increase in proportion to the increase in average wages in covered employment. If it is not a multiple of \$300, the amount is rounded to the nearest multiple of \$300.

The following are estimated automatic increases in the taxable wage base, as reported in the 1977 Report of the Board of trustees:

Year:	Contribution and benefit base
1979-----	\$18, 900
1980-----	20, 400
1981-----	21, 900

F. Employees of members of related groups of corporations.

In the case of concurrent employment of a worker by two or more related corporations, each of the employing corporations is liable for social security (and unemployment insurance) taxes on that part of the worker's wages attributable to services performed for each employer. In such cases of concurrent employment involving high paid workers, two or more employers may be liable for employer taxes on an employee's wages up to the taxable maximum.

Provides *ad hoc* increases in the maximum taxable amount of earnings for the years 1979 through 1981. For 1978, the taxable wage base is \$17,700 as computed under the automatic adjustment feature of prior law.

The maximum taxable earnings bases for 1979-1981 are shown in the following table, along with the estimated levels of the taxable wage base for 1982-1987, based on the intermediate set of assumptions shown in the 1977 report of the Board of Trustees. For years after 1981, the same automatic increase mechanism will adjust the taxable wage base when applicable.

Year:	Contribution and benefit base
1979-----	\$22, 900
1980-----	25, 900
1981-----	29, 700
1982-----	31, 800
1983-----	33, 900
1984-----	36, 000
1985-----	38, 100
1986-----	40, 200
1987-----	42, 600

The *ad hoc* increases in the taxable wage base will not increase the employer tax liability to finance tier-II benefits under the Railroad Retirement-Social Security Interchange System. The tier-II base for both benefits and tax purposes would be the same as under the automatic increase provision of prior law. The insured maximum pension amount requirements imposed on the Pension Benefit Guaranty Corporation by sec. 4022(b)(3)(B) of P.L. 93-406 will similarly not be affected by the *ad hoc* increases. (*See also*, sec. I, B, 13).

Provides that where related corporations concurrently employ the same individual and compensate such individual through a common paymaster (which is one of such corporations) such corporations shall be treated as a single employer for purposes of determining employer social security and unemployment insurance tax liability with respect to the wages paid to the individual. Effective with respect to wages paid after December 31, 1978.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

VI. FINANCING—Continued

Item	Prior law	Law as amended by Public Law 95-216
G. Reimbursement to trust funds from general revenues. (See also Coverage, Railroad Retirement—Interchange between systems.)	Appropriations from the general fund of Treasury reimburse social security trust funds for: (1) costs arising from granting of noncontributory wage credits for military service; (2) monthly benefits to certain persons age 72 and over who are not eligible for social security benefits under provisions of the program; (3) cost of providing benefits to individuals of Japanese ancestry for the period they were interned in the United States during World War II; and (4) administrative costs of SSI.	No change.

VII. RETIREMENT TEST

A. Scope.....	Applies to covered and noncovered work.....	No change.																										
B. Test of earnings.....	<p>Provides that benefits will be withheld from a beneficiary under age 72 (and from any dependent drawing on his record) at the rate of \$1 in benefits for each \$2 of annual earnings in excess of \$3,000 in 1977.</p> <p>Benefits are not withheld for any month in 1977 during which the individual neither rendered services for wages in excess of \$250 nor rendered "substantial services" in self-employment in a trade or business.</p> <p>Under automatic provisions, in the year after an automatic benefit increase becomes effective (see IV, B) the amount of earnings exempted from the withholding of benefits under the retirement test automatically increases in proportion to the increase in average wages in covered employment.</p> <p>The following are estimated automatic increases in the annual exempt amount under the retirement test as reported in the 1977 Report of the Board of Trustees (based on the intermediate set of economic assumptions):</p> <table border="0"> <tr> <td></td> <td align="right"><i>Annual exempt amount under retirement test</i></td> </tr> <tr> <td>Year:</td> <td></td> </tr> <tr> <td>1978.....</td> <td align="right">\$3,240</td> </tr> <tr> <td>1979.....</td> <td align="right">3,480</td> </tr> <tr> <td>1980.....</td> <td align="right">3,720</td> </tr> <tr> <td>1981.....</td> <td align="right">3,960</td> </tr> </table> <p>If the calculated monthly amount is not a multiple of \$10, it will be rounded to the nearest \$10.</p>		<i>Annual exempt amount under retirement test</i>	Year:		1978.....	\$3,240	1979.....	3,480	1980.....	3,720	1981.....	3,960	<p>Changes the age at which the retirement test no longer applies, from 72 to 70, effective 1982, see below.</p> <p>Eliminates the monthly measure of retirement. The monthly measure is retained, however, in the first year in which an individual is both entitled to benefits and has a month in which he does not have wages over the monthly exempt amount, or render substantial services in self-employment.</p> <p>Provides <i>ad hoc</i> increases in the annual exempt amount for the years 1978 through 1982 for beneficiaries aged 65 to 71 (cf. earnings limitation in 1982). For beneficiaries receiving reduced benefits aged 62 through 64, the annual exempt amount will be the same as the automatic increases in prior law. For years after 1982 the new exempt amount for beneficiaries aged 65 and over will be automatically adjusted to increases in average wages as under prior law.</p> <p>The following are the new annual exempt amounts for aged 65 and over beneficiaries:</p> <table border="0"> <tr> <td></td> <td align="right"><i>Annual exempt amount under retirement test</i></td> </tr> <tr> <td>Year:</td> <td></td> </tr> <tr> <td>1978.....</td> <td align="right">\$4,000</td> </tr> <tr> <td>1979.....</td> <td align="right">4,500</td> </tr> <tr> <td>1980.....</td> <td align="right">5,000</td> </tr> <tr> <td>1981.....</td> <td align="right">5,500</td> </tr> <tr> <td>1982.....</td> <td align="right">6,000</td> </tr> </table>		<i>Annual exempt amount under retirement test</i>	Year:		1978.....	\$4,000	1979.....	4,500	1980.....	5,000	1981.....	5,500	1982.....	6,000
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1979.....	4,500																											
1980.....	5,000																											
1981.....	5,500																											
1982.....	6,000																											
C. Age exemption.....	Benefits are not suspended because of work, or earnings if beneficiary is age 72 or over.	Changes to age 70 or over, effective 1982, see above.																										

D. Foreign work test----- Separate retirement test applies to employment or self-employment outside the United States which is not covered by the U.S. social security system. A monthly benefit is withheld when a beneficiary under age 72 works on any part of 7 or more days within a month. This test is based solely on the number of days the beneficiary works and not on the amount of earnings. No change.

E. Date for filing report of earnings---- When earnings in a year were large enough to cause a beneficiary to lose some or all of his benefits in a year, a report of earnings must be filed on or before the 15th day of the 4th month following the end of the person's taxable year (by April 15 if his taxable year is a calendar year). An extension may be granted by the Social Security Administration if requested in writing before due date by a beneficiary with a valid reason. No change.

The penalty for failure to file the 1st timely report is an amount equal to the amount of the monthly benefit to which such beneficiary was entitled for the last month of the year in question; for a 2d failure to report timely, an amount equal to 2 months' benefits; and for a 3d or subsequent failure to report timely, an amount equal to 3-months' benefits.

VIII. MISCELLANEOUS PROVISIONS

A. Reporting of wages for social security. Employers report wages for social security purposes on a quarterly basis. As a result of Public Law 94-202, beginning in 1978, private employers will report annually; however, quarterly wage information will need to be listed on the annual reports because provisions of the law which require the use of quarterly wage data were not changed. Forms W-2 will be used as the annual reports of wages for both social security and income tax purposes, and they will include either the amount of wages paid the worker in each quarter or a checkoff of the calendar quarters in which the worker was paid at least \$50 (the measure of a quarter of coverage). This information would allow SSA to determine whether a worker has enough quarters of coverage to be eligible for benefits.

Changes prior law provisions requiring the use of quarterly wage data so that only annual data will be needed. Listing quarterly wage information on W-2 forms will no longer be necessary, annual wages only will be reported. Effective January 1, 1978, a worker will receive one quarter of coverage (up to a total of four) for each \$250 of annual earnings. The \$250 measure will be automatically increased every year to take account of increases in average wages. (See sec. V, A; also, I, B, 3, 6, 7, 12, 15, 18; II, G; IV, C; VII B; VIII, D, 4).

B. Social Security Administration----- The Social Security Administration (SSA) was established, and its predecessor, the Social Security Board, was abolished by Federal Security Agency Reorganization Plan II of 1946. Reorganization Plan I of 1953 transferred the Social Security Administration from the Federal Security Agency to the Department of Health, Education, and Welfare.

No change.

C. Advisory Council on Social Security-- Requires that after January of each Presidential inauguration year the Secretary shall appoint an Advisory Council on Social Security consisting of a Chairman and 12 other members who are representatives of organizations of employees and employers, the self-employed, and the general public. The Council is required to review the status of the trust funds and the scope of programs under the OASI, DI, HI, and SMI trust funds, and their relationships to the public assistance programs under the Social Security Act. The Council is also required to submit reports of its findings and recommendations to the Secretary not later than January 1 of the 2d year after the year in which it is appointed. Such reports are to be transmitted to the Congress and the Board of Trustees.

The reporting date of the next statutory Advisory Council on Social Security is extended by nine months—to October 1, 1979.

Establishes a bipartisan National Commission on Social Security to be jointly appointed by the Congress and the President, composed of nine members—five appointed by the President and two each by the Speaker of the House and the President of the Senate—for the purpose of making a broad-scale, comprehensive study of the social security program including medicare. The study will include the fiscal status of the trust funds, coverage, adequacy of bene-

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

VIII. MISCELLANEOUS PROVISIONS—Continued

Item	Prior law	Law as amended by Public Law 95-216
C. Advisory Council on Social Security—Continued		<p>fits, possible inequities, alternatives to the current programs and to the method of financing the system, integration of the social security system with private retirement programs and the need to develop a special CPI for the elderly for purposes of social security cost-of-living increases. The Commission is required to submit its final report two years after a majority of the members are appointed.</p> <p>Requires the Secretary of Health, Education, and Welfare to conduct a study, to be completed within 6 months of enactment of P.L. 95-216, of proposals to eliminate dependency and gender based distinctions in the social security program. (See sec. III, A, 2.)</p>
D. Termination of benefits:		
1. Childhood disability benefits.	When two childhood disability beneficiaries or a childhood disability beneficiary and a disabled worker are married and one spouse's benefits are terminated the continued eligibility of the childhood disability beneficiary depends on his sex. A woman's childhood disability benefits end when her husband's disability benefits end. However, a man's childhood disability benefits are not terminated when his wife's disability benefits end.	No change, but will be reviewed by dependency study. See previous note.
2. Dependents' or dependent survivors' benefits.	When a childhood disability or disabled worker beneficiary marries a person receiving dependents' or dependent survivors' benefits, benefits of each individual continue. If the disabled beneficiary is a male and his benefits end, then his wife's benefits also end. However, if the disabled individual is the wife and her benefits end, then her husband's benefits are not terminated.	No change, but will be reviewed by dependency study. See VIII, C.
3. Deportation-----	Benefits are terminated upon the deportation of a retired or disabled worker under any 1 of 14 specified paragraphs of the Immigration and Nationality Act. Benefits of dependents and survivors who are not citizens will not be paid while they are out of the country.	No change.
4. Conviction of certain subversive crimes.	If an individual is convicted of treason, espionage, or certain other offenses of a subversive nature, including a number of offenses under the Internal Security Act or title 18 of the U.S. Code, the court in its discretion may provide in addition to all other penalties provided by law that none of the individual's wages or self-employment income (or the earnings of any other individual upon which his benefit is based) credited during the calendar quarter of conviction or in a calendar quarter before his conviction shall be used in computing his benefit. The provision applies only to the individual convicted of the offense and does not affect the rights of his dependents or survivors.	Provides that wages paid during the year of conviction or any prior year be excluded in determining entitlement to or the amount of a social security benefit.

E. Payments to aliens.....

Benefits to an alien are withheld if he is outside the United States continuously for 6 consecutive calendar months. (Once an alien has been outside the United States for 30 consecutive days he will be deemed to be outside the United States until he returns for 30 consecutive days.) This provision does not apply to an alien:

No change.

(1) who is a citizen of a country which has in effect a social insurance or pension system of general application which would pay benefits to qualified U.S. citizens while they are outside of that country;

(2) who is a citizen of a country that has no generally applicable social insurance or pension system and who is receiving benefits based on the earnings of a person who either has 40 quarters of social security coverage or lived in the United States for 10 years;

(3) who is outside the United States while in the active military or naval service of the United States;

(4) if application of provisions would be contrary to a treaty obligation in effect on Aug. 1, 1956;

(5) who is the survivor of a person who (a) died in military service of the United States; (b) died as a result of disease or injury incurred or aggravated in the line of duty while on active duty; or (c) died as a result of an injury incurred or aggravated in the line of duty while on inactive duty training; and (d) was released or discharged from the period of duty or training under conditions other than dishonorable;

(6) whose benefits are based on the earnings of a person who has earnings from railroad employment which are counted for social security purposes; or

(7) who was entitled to benefits for December 1956.

Benefits are not paid to individuals in months during which they reside in certain countries designated in Treasury regulations in which there is no assurance that the checks will be received or can be negotiated at the full value. A U.S. citizen can receive all accrued benefits for such months when he leaves such a country but aliens are not paid accrued benefits for such months.

F. Disclosure of information relating to the social security system.

There are four provisions affecting disclosure of records from the Social Security Administration:

- (1) Section 1106 of the Social Security Act;
- (2) Regulation No. 1;
- (3) Freedom of Information Act (FOIA); and
- (4) The Privacy Act.

First, section 1106 of the Social Security Act permits, but does not require, disclosure of personally identifiable information contained in the social security system records. Second, regulation No. 1 prescribes what information the Social Security Administration may release without violating its pledge of confidentiality and only as necessary for the administration of the Social Security Act. Third, the Freedom of Information Act requires the disclosure of records and statistical data that does not relate to information of a personally identifiable nature. Fourth, the Privacy Act provides safeguards against an invasion of personal privacy; it grants the individual the right of access to most information pertaining to him in a system of records, the right to obtain a copy of the records, and to request correction or amendment of the record.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

VIII. MISCELLANEOUS PROVISIONS—Continued

Item	Prior law	Law as amended by Public Law 95-216
F. Disclosure of information relating to the social security system— Continued.	<p>While section 1106 of the Social Security Act and regulation No. 1 have governed the disclosure of information contained in the social security system through the years, these two provisions have been affected by the Privacy Act, the Freedom of Information Act, and the recently enacted Sunshine Act.</p> <p>Regulation No. 1 basically provides that information can only be disclosed for purposes compatible with the administration of the social security program, administration of Federal welfare, tax, and immigration laws, or as a service to individual participants in the program. Section 1106 (added to the Social Security Act in 1939 after regulation No. 1 had already been issued) permits disclosure of information only pursuant to the regulations and provides the Secretary with absolute discretion as to what information may be disclosed, except as otherwise provided by law. Regulation No. 1 has been modified over the years to reflect the intent of certain statutes, most notably the Freedom of Information Act and the privacy legislation enacted in 1974.</p> <p>The Freedom of Information Act (1967) provides for the broad disclosure of information in Federal files, with nine separate exceptions, including (1) those things specifically exempted from disclosure by statute; (2) inter- and intra-agency memos and letters, or (3) personnel and medical files, the disclosure of which would constitute an unwarranted invasion of privacy.</p> <p>Subsequent court decisions imply that section 1106 of the Social Security Act applies only to information about individuals and not to general data or statistical information. There is a 10-day limit for Social Security Administration to respond to requests for information.</p> <p>Under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(b)), an agency, subject to 11 enumerated exceptions, is prohibited from releasing information contained in a "system of records" to a third party or another agency, without the prior, written consent of the individual to whom the record pertains. Among the 11 exceptions are (1) information required to be released under the Freedom of Information Act; (2) information required for operation of an agency; and (3) information ordered to be made available by a court of competent jurisdiction.</p> <p>While the Freedom of Information Act opens Government records, the Privacy Act generally protects records of a personal nature from public view. It provides an individual with a considerable degree of control over collection, maintenance, use, and disclosure of personal information pertaining to him.</p> <p>The Sunshine Act (Public Law 94-409), which became effective March 12, 1977, removes section 1106 as a basis for denying many requests for disclosure of information under the Freedom of Information Act.</p>	<p>Provides statutory requirement that the States have access to earnings information in records maintained by the Social Security Administration whenever such information is needed to administer the Aid to Families with Dependent Children (AFDC) program. Beginning October 1, 1979 the States will be required to request and use the earnings information if the same information is not available from the State employment security agency. The Secretary of Health, Education, and Welfare is authorized to establish safeguards against improper disclosure of the wage information.</p>

Prior to the enactment of the Sunshine Act on September 13, 1976, the Social Security Administration withheld much information, particularly personal information, from disclosure to the public by asserting the Freedom of Information Act exemption that protects information "specifically excluded from disclosure by statute;" i.e., section 1106 of the Social Security Act. However, the Sunshine Act, effective March 12, 1977, removes section 1106 as a basis for denying many requests for disclosure of information under the Freedom of Information Act. To withhold information from disclosure, the Social Security Administration will now have to look to other possible exemptions under the Freedom of Information Act, such as the one which protects information the disclosure of which would constitute a "clearly unwarranted invasion of personal privacy."

G. Social security numbers—issuances and penalties.

The Secretary of Health, Education, and Welfare requires applicants for social security numbers to furnish evidence as may be necessary to establish the age, citizenship or alien status, and true identity of such applicants. In carrying out the law, all applicants are screened against the Social Security Administration national files to make certain that the applicant has not already been issued a social security number.

No change.

The law provides that, if a person knowingly, willfully, and with an intent to deceive, falsely uses or represents a social security number assigned to him by the Secretary, he can be found guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

The Tax Reform Act of 1976 requires an individual to furnish to any State (or political subdivision thereof), in the administration of any tax, general public assistance, driver's license, or motor vehicle registration laws within its jurisdiction, the social security number issued to him by the Secretary for the purpose of establishing his identity.

H. Payment of benefits-----

Payment of social security benefits *ends* with the payment for the month before the month in which the death of a beneficiary occurs. Payment of social security benefits *begins* with a full payment for the first month for which a person becomes entitled to a benefit.

No change.

I. Delivery of benefit checks-----

No provision in prior law. (Administratively determined to date and deliver title II benefit checks on the third of each month for the previous month, except that when the third falls on a Sunday or legal holiday, checks were delivered earlier, but in no case was delivery made before the first day of the month.)

(Title XVI benefit checks were dated and delivered on the first of each month for the current month, but in no case was delivery made before the first day of the month.)

Provides that if the regularly designated dates for delivery of social security and supplemental security income benefit checks fall on a Saturday, Sunday or legal holiday, the checks will be mailed for delivery on the first day preceding the scheduled delivery date which is not a Saturday, Sunday or legal holiday, regardless of whether this necessitates delivery of two checks in one month.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE—Continued

VIII. MISCELLANEOUS PROVISIONS—Continued

Item	Prior law	Law as amended by Public Law 95-216
J. Overpayments-----	<p>A title II overpayment can be recovered by:</p> <ol style="list-style-type: none"> (1) requiring a cash refund; or (2) withholding current or future cash benefits of the overpaid person or any other person who is getting benefits on the same account, whether or not the overpaid person is alive; or (3) civil suit. <p>A person who is liable for the repayment of an overpayment may have recovery waived if the liable person is without fault and payment or recovery of those overpayments would either (a) defeat the purpose of the OASDHI program, or (b) be against equity and good conscience.</p> <p>A title XVI overpayment can be recovered by:</p> <ol style="list-style-type: none"> (1) appropriate adjustments in future payments to an individual; or (2) by recovery from such individual or his eligible spouse (or by recovery from the estate of either). <p>A person who is liable for the repayment of an overpayment may have recovery waived if the liable person is without fault and payment or recovery of those overpayments would either (a) defeat the purpose of title XVI, (b) be against equity or good conscience, or (c) impede efficient or effective administration of title XVI due to the small amount involved.</p>	<p>Waives recovery of incorrect overpayment where the overpayment occurs as a direct result of the provision requiring early delivery of benefit checks under title II and title XVI when the regularly designated delivery date falls on Saturday, Sunday or legal holiday. <i>See</i> previous note.</p>
K. Underpayments-----	<p>In the case of cash benefit underpayments where an individual dies before the completion of the payment of amounts due him, payment is to be made according to the following order of priority:</p> <ol style="list-style-type: none"> (1) Spouse living with the individual at time of death or to the spouse entitled to benefits on the same earnings record. (2) Child or children entitled to benefits on the same earnings record. (3) Parent entitled to benefits on the same earnings record. (4) Spouse who was neither entitled to benefits on the same earnings record nor living with the individual. (5) Child not entitled to benefits on the same earnings record. (6) Parent not entitled to benefits on the same earnings record. (7) Legal representative of the individual's estate, if any. 	<p>No change.</p>
L. Computation of military wage credits.	<p>In cases where a person is eligible for noncontributory military service wage credits for periods both before 1957 and after 1956, SSA is required to compute the cost to the social security trust funds of paying increased benefits based on the credits by a different method for each of the two periods.</p>	<p>No change.</p>

- M. War Shipping Administration ----- Unpaid social security employee taxes for services rendered between September 1941 and March 1943 in the employ of the War Shipping Administration are withheld from social security benefits based on such employees' earnings. No change.
- N. Mutual assistance agreements----- The claim of an individual residing outside the United States for social security benefits is developed and his continuing entitlement to benefits is verified by SSA personnel in the United States through direct correspondence with the beneficiary or with the assistance of U.S. diplomatic and consular posts abroad. There is no provision under present law enabling the U.S. to enter into agreements with foreign countries to provide mutual assistance in processing claims for benefits of people residing abroad. No change.
- O. Cost of complying with Pension Reform Act. Present law allows for only partial reimbursement to the trust funds for the costs of providing certain private pension plans with detailed earnings information needed by the plans to comply with the Pension Reform Act (the Employee Retirement Income Security Act of 1974). No change.
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APPENDIX

TABLE A1.—Estimated amount of changes in OASDI benefit payments that will result from Public Law 95-216, calendar years 1978-83

[In millions of dollars]

	1978	1979	1980	1981	1982	1983
Total amount of change in benefit payments.....	-440	-492	-844	-1,446	-1,696	-2,577
Decoupling (net total).....		-70	-351	-803	-1,473	-2,377
Wage-indexing formula.....		-94	-423	-895	-1,563	-2,466
5-year transition guarantee.....		24	79	118	150	180
Frozen minimum benefit.....			-7	-26	-60	-106
3-percent delayed retirement credit.....						15
Changes in retirement test (net total).....	54	266	359	404	895	981
Increases in exempt amount ¹	267	491	585	640	709	762
Reduction in exempt age from 72 to 70 in 1982.....					403	441
Elimination of monthly measure.....	-213	-225	-226	-236	-217	-222
Establish the retirement test exempt amount for beneficiaries aged 65 and over as a measure of substantial gainful activity for blind disabled workers.....		1	1	1	2	2
Elimination of retroactive payments of actuarially reduced benefits.....	-339	-536	-550	-559	-565	-569
Limitation on increases in actuarially reduced benefits.....	-90	-280	-500	-751	-948	-1,157
Increase in benefits of surviving spouses, resulting from deceased workers' delayed retirement credits.....	3	4	5	7	10	13
Delayed retirement credits for workers with actuarially reduced benefits.....		14	22	24	26	30
Offset to benefits of spouses receiving public retirement pensions.....	-68	-106	-108	-110	-112	-116
Eliminate reduction in widowed spouses benefits due to remarriage after age 60.....		130	155	166	178	189
Reduction in duration of marriage required for divorced spouses benefits from 20 years to 10 years.....		67	80	86	92	98
Increase in special minimum benefits.....		12	14	14	15	16
Changes in annual wage reporting provisions.....	(2)	1	4	9	18	26
Authorization to enter into totalization agreements ³	(2)	5	4	4	5	6
Increases in contribution and benefit base.....		(2)	21	62	161	281

¹ Exempt amount increased for beneficiaries aged 65 and over to \$4,000 in 1978, \$4,500 in 1979, \$5,000 in 1980, \$5,500 in 1981, and \$6,000 in 1982.

² Less than \$500,000.

³ The estimates represent additional OASDI benefit payments that would result from implementation of totalization agreements already signed with Italy and

West Germany. No agreement can become effective if either House of Congress disapproves the agreement within 90 days after it is submitted to Congress.

Note: A positive figure represents additional benefit payments, and a negative figure represents a reduction in benefit payments.

TABLE A2.—Additional contribution income resulting from Public Law 95-216, calendar years 1978-83

[In billions of dollars]

Calendar year	Increase in contribution and benefit base	Reallocation of tax rates between OASDI and HI	Increase in tax rates for employees and employers	Increase in OASDI self-employment tax rates to 1½ times employee rate	Total ¹
OASDI:					
1978		1.6			1.7
1979	4.0	1.1	1.5		6.6
1980	6.3	1.1	1.8		9.2
1981	8.0	1.2	8.1	0.2	17.6
1982	8.8	1.3	10.3	.8	21.3
1983	9.4	1.4	11.1	.9	22.9
HI:					
1978		-1.6			-1.6
1979	.9	-1.1			-.2
1980	1.4	-1.1			.2
1981	2.1	-1.2			.9
1982	2.4	-1.3			1.0
1983	2.5	-1.4			1.1
OASDHI:					
1978					(²)
1979	4.9		1.5		6.4
1980	7.6		1.8		9.4
1981	10.1		8.1	.2	18.4
1982	11.2		10.3	.8	22.4
1983	11.9		11.1	.9	23.9

¹ Includes relatively small amounts of additional taxes payable by employers on employees' income from tips and reduction in taxes due to the provision on totalization agreements.

² Amount is less than \$50,000,000.

TABLE A3.—Estimated operations of the OASI and DI trust funds, combined, under the program as modified by Public Law 95-216, calendar years 1977-87

[Dollar amounts in billions]

Calendar year:	Income	Outgo	Net increase in fund	Funds at end of year	Funds at beginning of year as a percentage of outgo during year	Funds at end of year as a percentage of outgo during year
1977	\$82.1	\$87.6	-\$5.5	\$35.6	47	41
1978	92.4	97.2	-4.8	30.8	37	32
1979	106.5	106.9	-.4	30.4	29	28
1980	119.1	117.1	2.0	32.4	26	28
1981	137.1	127.4	9.6	42.0	25	33
1982	150.2	138.3	11.9	53.9	30	39
1983	161.3	149.2	12.1	66.0	36	44
1984	172.9	161.2	11.7	77.7	41	48
1985	194.2	174.0	20.1	97.9	45	56
1986	209.0	187.6	21.4	119.3	52	64
1987	223.7	202.0	21.7	141.0	59	70

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

TABLE A4.—Estimated operations of the OASI trust fund under the program as modified by Public Law 95-216, calendar years 1977-87

[Dollar amounts in billions]

	Income	Outgo	Net increase in fund	Funds at end of year	Fund at beginning of year as a percentage of outgo during year	Fund at end of year as a percentage of outgo during year
Calendar year:						
1977-----	\$72.5	\$75.6	-\$3.1	\$32.3	47	43
1978-----	78.6	83.6	-5.0	27.3	39	33
1979-----	90.8	91.6	-.8	26.5	30	29
1980-----	101.5	100.0	1.5	28.0	26	28
1981-----	116.0	108.4	7.5	35.6	26	33
1982-----	127.2	117.4	9.7	45.3	30	39
1983-----	136.6	126.3	10.3	55.6	36	44
1984-----	146.4	136.0	10.5	66.1	41	49
1985-----	162.0	146.4	15.7	81.7	45	56
1986-----	174.1	157.3	16.8	98.5	52	63
1987-----	186.3	168.9	17.4	115.9	58	69

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

TABLE A5.—Estimated operations of the DI trust fund under the program as modified by Public Law 95-216, calendar years 1977-87

[Dollar amounts in billions]

	Income	Outgo	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of outgo during year	Fund at end of year as a percentage of outgo during year
Calendar year:						
1977-----	\$9.6	\$12.0	-\$2.4	\$3.3	48	27
1978-----	13.8	13.7	.2	3.5	24	25
1979-----	15.7	15.3	.4	3.9	23	26
1980-----	17.6	17.1	.5	4.4	23	25
1981-----	21.1	19.0	2.1	6.5	23	34
1982-----	23.0	20.9	2.1	8.6	31	41
1983-----	24.7	22.9	1.8	10.4	38	45
1984-----	26.5	25.2	1.3	11.6	41	46
1985-----	32.1	27.7	4.5	16.1	42	58
1986-----	34.9	30.3	4.6	20.8	53	69
1987-----	37.4	33.1	4.3	25.1	63	76

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

TABLE A6.—Estimated operations of the HI trust fund under the program as modified by Public Law 95-216, calendar years 1977-87

[Dollar amounts in billions]

Calendar year:	Income	Outgo	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of outgo during year	Fund at end of year as a percentage of outgo during year
1977-----	\$16.1	\$16.2	-\$0.1	\$10.5	66	65
1978-----	19.2	19.0	.2	10.7	55	56
1979-----	23.1	22.2	.9	11.6	48	52
1980-----	25.7	25.7	(¹)	11.5	45	45
1981-----	34.0	29.7	4.3	15.9	39	53
1982-----	37.1	33.9	3.3	19.1	47	56
1983-----	39.7	38.5	1.2	20.3	50	53
1984-----	42.3	43.7	-1.4	19.0	47	43
1985-----	46.3	49.1	-2.8	16.1	39	33
1986-----	52.4	54.9	-2.5	13.6	29	25
1987-----	55.8	61.2	-5.4	8.2	22	13

¹ Outgo exceeds income by less than \$50 million.

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

TABLE A7.—Change in actuarial balance of the OASDI program over the long-range period (1977-2051) as a result of changes included in Public Law 95-216

[Percentage of payroll costs: preliminary estimates]

Description of item	OASI	DI	Total
Cost of social security system under present law-----	15.51	3.68	19.19
Balance under present law-----	-6.06	-2.14	-8.20
Changes of the bill:			
Wage-indexed decoupling-----	3.19	.95	4.13
5 percent reduction in benefit level-----	.53	.13	.66
Freeze minimum at 1978 level (including change in special minimum)-----	.07	.02	0.8
Government pension offset-----	.04		0.4
Retirement test-----	-.11		-.11
Delayed retirement credit (including DRC for widows)-----	-.06		-.06
Marriage/remarriage effect after age 60-----	-.01		-.01
Elimination of retroactive payments of actuarially reduced benefits-----	.01		.01
Actuarial reduction applied to general benefit increase-----	.24		.24
Miscellaneous ¹ -----			
Annual reporting of earnings-----	-.01		-.01
Change wage base-----	.45	.08	.54
Self-employed tax rate to 1½ times employee tax rate-----	.08	.02	.10
Tax schedule-----	.57	.57	1.14
Total net cost effect-----	4.98	1.75	6.74
Balance under conference committee bill-----	-1.08	-.38	-1.46

¹ Includes change in SGA definition for blind, employer tax on tips deemed to be wages, provision on limited partnership coverage, tax relief for affiliated corporations, reduction of 20-yr marriage requirement to 10 yr for certain beneficiaries.

Note: Based on the intermediate set of assumptions shown in the 1977 trustees report.

TABLE A8.—Social security (OASDHI) tax rate, wage base levels and contributions under prior law and under Public Law 95-216

	OASDHI tax rates (percent)		Wage base		\$10,000 wage earner			\$20,000 wage earner			Maximum wage earner		
	Prior law	Public Law 95-216	Prior law	Public Law 95-216	Prior law	Public Law 95-216	Increase	Prior law	Public Law 95-216	Increase	Prior law	Public Law 95-216	Increase
1977	5.85	5.85	\$16,500	\$16,500	\$585	\$585	-----	\$965.25	\$965.25	-----	\$965.25	\$965.25	-----
1978	6.05	6.05	17,700	17,700	605	605	-----	1,070.85	1,070.85	-----	1,070.85	1,070.85	-----
1979	6.05	6.13	18,900	22,900	605	613	\$8	1,143.45	1,226.00	\$82.55	1,143.45	1,403.77	\$260.32
1980	6.05	6.13	20,400	25,900	605	613	8	1,210.00	1,226.00	16.00	1,234.20	1,587.67	353.47
1981	6.30	6.65	21,900	29,700	630	665	35	1,260.00	1,330.00	70.00	1,379.70	1,975.05	595.35
1982	6.30	6.70	23,400	31,800	630	670	40	1,260.00	1,340.00	80.00	1,474.20	2,130.60	656.40
1983	6.30	6.70	24,900	33,900	630	670	40	1,260.00	1,340.00	80.00	1,568.70	2,271.30	702.60
1984	6.30	6.70	26,400	36,000	630	670	40	1,260.00	1,340.00	80.00	1,663.20	2,412.00	748.80
1985	6.30	7.05	27,900	38,100	630	705	75	1,260.00	1,410.00	150.00	1,757.70	2,686.05	928.35
1986	6.45	7.15	29,400	40,200	645	715	70	1,290.00	1,430.00	140.00	1,896.30	2,874.30	978.00
1987	6.45	7.15	31,200	42,600	645	715	70	1,290.00	1,430.00	140.00	2,012.40	3,045.90	1,033.50

94th Congress }
2d Session }

COMMITTEE PRINT

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Background Material on Social Security
Coverage of Governmental Employees
and Employees of Nonprofit
Organizations

PREPARED BY THE STAFF OF THE
SUBCOMMITTEE ON SOCIAL SECURITY



APRIL 26, 1976

NOTE—This document has been printed for information purposes only.
It has not been considered or approved by the committee.

U.S. GOVERNMENT PRINTING OFFICE

69-742

WASHINGTON : 1976

WMCP : 94-127

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(II)

Social Security Coverage of State and Local Government Employment

PRESENT LAW

Social security coverage for employees of the States and their political subdivisions is available only through agreements between the Secretary of Health, Education, and Welfare and the States. Under the agreements each State decides what groups will be covered, subject to provisions in the Federal law which assure retirement system members a voice in the coverage decision. Under these provisions, about 70 percent—some 8 million out of the approximately 12 million State and local employees—are covered under social security. Of approximately 4 million employees who are not covered, around 250,000 are in occupations that are excluded from coverage, e.g., university students. The great majority of those not covered under social security are covered under a State or local retirement system.

The social security law permits termination of coverage for employees of State and local governments. The action to terminate coverage must be taken by the State, rather than by the employees of the State and local governments involved. The State must give 2 years' advance notice of its desire to terminate social security coverage of the employees of a political subdivision and such notice cannot be given until after the coverage has been in effect for at least 5 years. The social security law also provides that once coverage has been terminated for a coverage group it can never again be provided for that group. In addition, the Secretary of Health, Education, and Welfare may terminate an agreement if after a hearing he finds that a State either had "failed or is no longer legally able to comply with any provision" of the agreement.

LEGISLATIVE HISTORY

The Social Security Act excludes from mandatory coverage all employment for States and localities, primarily because of the question of the constitutionality of any general levy of the employer tax on States and localities. In its report to the Committee on Ways and Means of the House of Representatives in 1939, the Social Security Board stated that "no method has yet been devised which would overcome constitutional difficulties and also protect the old-age insurance system against adverse selection." During the 1940's the general consensus was that the voluntary agreement approach offered the most practical method of extending coverage to employees of State and local governments. Legislation enacted in 1950 followed this approach in making social security coverage generally available for periods after 1950 to those employees of States and their political subdivisions not covered under a State or local retirement system.

During the consideration of the 1950 legislation, opposition to coverage of employees under State and local retirement systems was expressed by officers and representatives of retirement systems and many of the employee organizations. Their opposition was based on the belief that State and local governments might not support two retirement systems and that consequently their own systems would be abandoned or greatly curtailed if social security coverage were obtained. In its report on H.R. 6000, which became the Social Security Act Amendments of 1950, the Senate Finance Committee stated that "Your Committee received overwhelming testimony against permitting such coverage and has so specifically prohibited it."

The 1950 legislation provided that social security coverage for State and local employees could be secured only for groups of employees called "coverage groups." This limitation was designed to prevent selection against the social security program. In general, all of the employees of a State or of a political subdivision not under an existing retirement system constituted a coverage group, and with the exception of specified minor groups of employees that were excluded compulsorily, or could be excluded at the option of the State, all of the employees in a coverage group had to be covered if any were to be covered. Consistent with the approach to coverage, the 1950 legislation also provided that a State could terminate the coverage of employees of any coverage group.

Legislation enacted in 1954 made social security coverage available to State and local government employees covered under retirement systems, with the exception of policemen and firemen, who, at the request of their representatives, continued to be excluded from coverage. The legislation stated that it was the policy of the Congress in making coverage available to retirement system members that there be no impairment of the protection of members and beneficiaries of a retirement system by reason of the extension of old-age and survivors insurance coverage to employment covered by the retirement system.

The 1954 legislation made it possible for persons in State and local employment to have coordinated protection under State and local systems and social security. Generally, when social security coverage was extended to State and local retirement system members the States and political subdivisions modified their retirement systems to take account of the social security contributions and the social security benefits that would be payable. Under one approach the States and subdivisions modified the contributions and benefits provided under the retirement systems to make the retirement system protection supplementary to that provided under social security. Under the second approach the States and subdivisions modified the retirement systems by providing for an offset of the retirement system benefits by the social security benefits payable.

In 1956 legislation was enacted which permitted 8 specified States and the then Territory of Hawaii to extend coverage to only those members of a retirement system group who desired such coverage, with compulsory coverage for all persons who later became members of the retirement system group. Since 1956, the Congress has extended this special provision to additional States when it was clear that the State desired such legislation. At present, the so-called "divided retirement

system" provision is available to 20 specified States and all interstate instrumentalities. While this provision does give current employees a choice of coverage, the social security trust funds are protected by the requirement that all future members must be covered under social security. This makes certain that eventually all members of the retirement system will be covered under the Federal program.

Another provision of the 1956 amendments made an exception to the specific exclusion from coverage of policemen and firemen who are under a State or local retirement system. It permitted these employees to be covered in 5 specified States. Since 1956, this provision has been extended to additional States when it was clear that the State desired such coverage, until at present it applies to 21 specified States, Puerto Rico, and all interstate instrumentalities. Also, in 1967 the law was amended to permit all States to provide social security coverage for firemen who are covered under a State or local retirement system, if the State certifies that the social security coverage would improve the overall protection available to the firemen concerned.

INCREASING TREND TOWARD TERMINATION OF SOCIAL SECURITY COVERAGE

1. *Magnitude.*—Since social security coverage was first made available to State and local employees, their coverage under the program has increased dramatically. By the early 1960's all States had made coverage agreements and the percentage of State and local employees covered under social security had reached its present level—about 70 percent of all State and local employees are covered under social security. During the 1950's and 1960's there were very few terminations of coverage—in many cases the terminations resulted from dissolutions and consolidations of political subdivisions. The number of State and local employees brought under coverage each year always well exceeded the number of terminations up until 1975. However, in 1975 the number of positions newly covered exceeded the number of positions terminated by only 1,905. Coverage was terminated for about 15,105 jobs in 1975, while only 17,010 additional jobs were covered under the coverage agreements.

In the past 4 years there has been an increasing trend in the termination of social security coverage. By March 1972 coverage had been terminated for 133 entities employing about 9,900 workers (an average of 74 workers per entity). As of December 1975 the number of entities terminated had increased to 321, and the number of employees involved to about 44,700. (The terminations between 1972 and 1975 averaged 139 employees per entity.) The Social Security Administration expects the number of employees terminating to accelerate beginning this year based on notices filed by the States of the intent to terminate coverage. By December 1977, based on requests already received, the Social Security Administration expects coverage to be terminated for another 210 entities employing about 75,000 workers (an average of 357 employees per entity).

The State with the largest number of State and local employees for whom coverage has already been terminated is California where the coverage of about 24,500 employees had been terminated as of December 1975 and the termination of the coverage of an additional 33,600

employees is pending. However by March 1978 the State of New York will lead in the number of employees terminated. In 1976 the State of New York submitted notice to terminate social security coverage for several groups in New York City. These groups include about 362,000 employees, or about 90 percent of the employees in New York City who are now covered under social security. Unless New York withdraws its notice of termination the coverage of these employees will be terminated effective March 31, 1978.

No State has yet terminated the coverage of all State employees but the State of Alaska will do so effective on December 31, 1977 (for about 12,600 employees) unless it withdraws its notice of termination before that date. Coverage has also been terminated to a larger extent than in most States by Louisiana and Texas (11,397 and 4,868 employees respectively as of December 1975) and there are many terminations pending for these States. (Coverage will be terminated for an additional 22,003 and 3,097 positions respectively in these States by the end of 1977.)

2. *Motivation behind termination.*—In most cases up to now, when a State terminated social security coverage, it was due to pressure from employees who wanted their coverage terminated. Individuals who desire to terminate their coverage are usually those who have been covered long enough under the program to meet the earnings requirements for social security benefits without paying further contributions. They often believe that it would be to their financial advantage to withdraw from social security and purchase other protection with the money that would otherwise have been paid as social security contributions. Others, particularly policemen, firemen, and teachers, wish to withdraw from social security because they have liberal staff-retirement system protection and, since they can often retire at age 50 or 55 (or, in some cases, after 20 years' service) with half pay, expect to be able to qualify for social security benefits on the basis of credits earned in secondary jobs or covered work performed after retirement from State or local employment.

Most recently, the severe financial difficulties of many State and local entities have led State and local employers to actively consider coverage termination as a way of reducing costs. The most well known recent example is New York City. (New York City's social security employer tax liability is now about \$250 million a year, while its annual cost for retirement plans for its employees is about double that.)

PROBLEMS RESULTING FROM TERMINATION OF COVERAGE

1. *Gaps in protection.*—Termination of social security coverage can result in gaps in protection for the employees involved. Some employees have not worked long enough to be permanently insured when coverage is terminated. Even those who are insured for retirement protection will lose disability protection in 5 years unless they have other work covered under social security. Further improvements in the scope of social security protection and increases in benefit levels will make it difficult, if not impossible, for future employees in a terminated group to obtain comparable replacement protection at the cost of remaining under social security.

2. *Unwilling termination of coverage.*—A related problem is that when coverage is terminated for a group, some employees who wish to continue to be covered are nevertheless terminated because part of the group desires termination. This has occurred most frequently in the case of policemen and firemen who have aggressively campaigned for termination even though employees in the group who are not policemen or firemen have opposed termination. This is an especially serious situation because the staff-retirement protection for the policemen and firemen is often considerably more liberal than for other members of the group who suffer serious deficiencies in their protection when coverage is terminated. There are presently pending before the committee several bills to allow policemen and firemen to terminate their coverage without affecting the coverage of other employees in the same coverage group and to permit the reinstatement of coverage of such employees where the group's coverage has been previously terminated. The administration has also recommended the enactment of such legislation.

3. *Effects on social security program.*—Termination of social security coverage has serious financial effects on the social security program since coverage of State and local employees has until now usually been terminated at a time when most of the employees are already insured for social security benefits. In many of these cases the social security benefits payable are based on less than a lifetime of covered work and are heavily weighted, thus representing a large return on the workers' contributions. Also in regard to short-term financing, termination can present serious financing problems. For instance, the Social Security Administration has estimated that there will be a \$3.1 billion loss in contributions and interest to the social security trust funds during the period 1978 through 1982 if coverage is terminated for the 362,000 employees of New York City effective in March 1978. If half of the 8 million State and local government employees were terminated, the loss for the same period would be \$37.2 billion. On the other hand, if all State and local employees were covered on a mandatory basis an additional \$35.2 billion would be added to the social security trust funds.

The trend toward State and local termination not only has an adverse effect on the social security trust funds but also stimulates other workers and employers to consider termination—including persons other than State and local employees who may seek the right to terminate their social security coverage. People covered under the social security program on a compulsory basis resent the fact that State and local employees have the right to terminate coverage. The publicity given to the recent New York City notice of termination has especially aggravated this situation and tends to undermine public confidence in the social security program.

4. *Alternative protection may not be adequate.*—Many State and local employees who seek termination of their social security coverage do so on the assumption that they can obtain protection comparable to that available under social security under an alternative plan at a lower cost. However, this may not always be the case. Even if the alternative plan is to greatly improve the retirement system protection, often the additional costs resulting from the liberalizations are

inadequately financed. In some cases the retirement systems are financed completely on a current cost basis which, while suitable for the social security program which is backed by the capacity of the national work force to finance it, is not desirable for a retirement plan for a relatively small group of employees. In other cases a State and local employer, due to a shortage of operating funds, may divert contributions intended for the retirement system to other purposes. In these cases there is a real future threat to the ability of the plan to continue paying its promised benefits.

PROBLEMS RESULTING FROM LACK OF COVERAGE OF SOME STATE AND
LOCAL EMPLOYMENT

The exclusion of about 4 million State and local workers from social security coverage has resulted in two serious problems, both related to the fact that many workers shift between State and local employment not covered under social security and employment covered under social security.

1. *Gaps in protection.*—The first problem is that a large number of individuals who have worked both under social security and in non-covered jobs subject to a staff-retirement system have gaps in their protection. Some get benefits under only one system, so that their benefits do not reflect all their work. Some who have worked under both systems do not get benefits under either program. For example, many workers who leave State or local employment have no carry-over staff-retirement protection against death or disability, and, if they become disabled or die before working long enough under social security to qualify for social security benefits, have no protection under either program.

2. *Windfall social security benefits.*—The second problem is that some State and local employees whose major employment is not covered under social security qualify for substantial staff-retirement benefits and also qualify for windfall social security benefits by working for relatively short periods in secondary jobs covered by social security. Windfall situations occur because the social security program, in accordance with principles common to social insurance, provides heavily weighted benefits for people who have had low average monthly earnings over what would generally be considered a working lifetime since they have less margin for reduction in their income upon retirement, disability, or death. These heavily weighted benefits, though low dollar amounts, represent a relatively high return on a worker's social security contributions. Since many of those people who work less than a full working lifetime under social security are likely to have an artificially low average of monthly earnings under social security (because benefits are based on earnings averaged over many years—ultimately over a period of 35 years—and they will have years of no or low earnings under social security due to their non-covered work) they may qualify for heavily weighted social security benefits. In such situations, the combined benefits under the two systems may result in substantially higher benefits than if all the work had been covered under only one system.

This situation is unfair to all workers covered under social security and to their employers who must bear the cost of the windfall social security benefits payable to the State and local employees in such situations.

ALTERNATIVE APPROACHES TO SOLVING THE PROBLEMS THAT ARISE UNDER
THE PRESENT STATE AND LOCAL COVERAGE PROVISIONS

There are several general approaches to solving the problems that arise because State and local employment is not covered under social security on a compulsory basis and because coverage can be terminated for State and local groups. Most of the approaches however, raise, in varying degrees, constitutional issues, including the issue of Federal taxation of the States.

1. *Compulsory coverage.*—Compulsory coverage of State and local employment would not only solve the termination problem but would prospectively eliminate windfall benefits and would fill the gaps in protection of those who move between noncovered State and local employment and work covered under social security. Contributions and benefits provided under staff-retirement systems for groups not now covered under social security could be adjusted to take account of social security coverage and contributions. Coordinated coverage under social security and a staff-retirement system would assure that benefits under both systems would be reasonably related to a worker's lifetime earnings and contributions.

The 1975 Advisory Council on Social Security urged that all employment not mandatorily covered under social security, including State and local employment, be compulsorily covered under social security. The Social Security Administration estimates that the extension of compulsory social security coverage to noncovered State and local employment would over the long-range future result in a reduction in the cost of the cash benefits program of about 0.15 percent of taxable payroll and about 0.04 percent in the cost of the hospital insurance program.

However, the States would probably be opposed to compulsory coverage, because of cost considerations and because many State and local employers whose employees are not now covered under social security would have to modify their staff-retirement systems to take account of the additional cost of social security coverage. There is also an unresolved constitutional question as to whether the Federal Government can levy a social security tax on employment by States and their political subdivisions.

A modification of this approach which would avoid the issue of whether the social security employer tax can be levied on the States and their political subdivisions would be to compulsorily cover all State and local employment but only to collect the social security employee taxes on such employment. This modification would eliminate the problems of terminations, windfall benefits, and gaps in protection but would have a substantial cost for the social security program due to the loss of the employer contributions. To the extent that the added cost would have to be borne by the rest of the contributors to the social security program, this approach would be unfair.

2. *Coverage of State and local employees under the self-employment provisions.*—Under this alternative all State and local employees not covered under social security (either because the State has not chosen to extend coverage to them or because the State has terminated their coverage) would be compulsorily covered under the self-employment provisions of the social security law. There are precedents for the treatment of employees as self-employed persons under social security where there were problems in taxing employers, such as in the cases of clergymen and members of religious orders who have not taken a vow of poverty, U.S. citizens who perform services in the United States as employees of foreign governments or international organizations, and certain newspaper vendors who are 18 years of age or older. This alternative would achieve universal coverage of State and local employment, thus eliminating the problems of windfalls and gaps in protection, and would probably discourage employees from seeking termination of coverage under State coverage agreements since they would then have to pay social security self-employment contributions, which are higher than employee contributions.

There are several problems associated with this approach. One problem is that the social security trust funds would be disadvantaged in that the self-employment contribution rate is only 68 percent of the combined employer-employee contribution rate. (Alternatively, only those State and local employees whose coverage has been terminated could be covered as self-employed. This would reduce the cost to the trust funds due to the lower self-employment tax rate but would not eliminate windfall benefits for employees whose State and local employment had never been covered under social security.)

Another problem with this approach is that while it would discourage employees from seeking termination, it could encourage employers to terminate because it would relieve them of the burden of contributing to their employees' social security protection without depriving the employees of social security protection. Also, for the same reason, there would be no incentive for a State to extend coverage to additional State and local employee groups. On the other hand, pressures from State and local employees could tend to inhibit their employers from terminating coverage and might in fact result in coverage of additional employees under Federal-State coverage agreements.

Still another problem is that State and local employees would probably object to this approach because of the cost to them. The majority of State and local employees who are not now covered under social security are covered under and pay contributions to a State or local retirement system. Coverage under social security on a self-employment basis would often result in the employees being required to make very substantial contributions toward their retirement protection. Further, in some cases, the combined benefits payable under social security and the staff-retirement system would be higher than their former salary. The provisions of the staff-retirement systems would have to be adjusted, if these problems are to be avoided.

3. *Offset of social security benefits.*—Another approach would be to reduce the social security benefit payable to a person who was also entitled to a staff-retirement pension based on State and local employment which was not covered under social security. This would solve the problem of windfall benefits.

This approach has several serious difficulties. It has proved virtually impossible to find an offset method which would produce equitable results and would not involve insurmountable administrative difficulties. For example, one offset method considered (but not recommended) by the 1975 Advisory Council would be to combine an individual's earnings under social security and under the staff-retirement plan for purposes of determining the average monthly wage (AMW) and the earnings-replacement rate of the social security benefit based on the combined earnings. The replacement rate applicable under social security to that AMW would be applied to the individual's AMW based solely on his earnings covered under social security to determine the social security benefit payable. This approach would adversely affect individuals who worked under both systems and did not receive windfall benefits (e.g., a person whose work career was split 50-50 between both systems). Also, under this approach the amount of the reduction in social security benefits would be capricious because they would vary depending on whether the majority of the social security employment had preceded or followed the employment under the other system. (The major reason for this variation is the substantial increases in the contribution and benefit base over the years.) Furthermore, under this method it would be necessary to obtain records of noncovered earnings from the State and local staff-retirement systems; this could prove very difficult (and in some cases impossible) and would result in delays in benefit payments.

ALTERNATIVE APPROACHES TO SOLVING ONLY THE TERMINATION PROBLEMS

1. *Repeal termination provisions.*—Section 218(g)(1) provides the authority to the States to terminate the coverage for State and local groups after the 2-year notice requirement and the 5-year duration of agreement requirement is met. This provision could be repealed so that *under the law* no current agreement could be terminated and future coverage agreements would be of permanent duration. There is a question, of course, as to whether the provision for termination which appears in each of the State agreements could be altered unilaterally. Moreover, this procedure apparently would not take care of the situation where a State refused to meet its liability for the employer contribution which, under existing law, would lead to termination of the agreement by the Secretary of Health, Education, and Welfare. A court would be unlikely to enforce a contractual obligation imposed on the State where the Federal Government had already broken the agreement by prohibiting termination. Since without some punitive provision, the State could thus, by non-compliance, accomplish what it wanted to do in the first place—terminate coverage for its employees—the issue of mandatory coverage of State and local employees is really raised again by this alternative. Under another form of this approach all present coverage agreements could be terminated, and the States could be given an opportunity to negotiate new agreements which would not include a right to terminate coverage for State and local employees.

Any legislation to foreclose termination would probably accelerate rather than inhibit termination of coverage because pending notices of

termination would become effective immediately. Many who were considering termination notices would be likely to precipitously grasp the opportunity to stay out of coverage permanently. States which may not even have been considering termination might take advantage of the opportunity to take their employees out of coverage by not negotiating new agreements. To the extent that the States exercised the opportunity to terminate, this approach could severely impair the social security protection of millions of State and local employees, increase the windfall benefits problem and result in serious adverse effects on the social security trust funds.

2. *Freeze benefits of State and local employees whose coverage is terminated.*—Benefits of State and local employees whose coverage is terminated could be frozen at the level provided under the law at the time of termination. Thus, terminated employees would not get the advantages of general benefit increases or liberalization in protection afforded under the program which were enacted after termination. This approach would discourage terminations and would reduce the windfall benefits problem associated with terminations. The major objection to this approach is that it would run counter to the purpose of social security of preventing dependency, in that it would seriously impair the protection of many State and local employees. Also it would be inequitable to freeze the social security benefits of State and local employees whose coverage was terminated (especially those employees who wanted and needed continued social security coverage) while giving all other individuals who left employment covered under social security the benefit of future improvements in social security.

This approach would be difficult to administer because records would have to be kept of which individual State and local employees occupied the positions for which coverage was terminated at the time coverage was terminated, and there would have to be special provisions for computing the amount of their frozen benefits. The provision would also be difficult to apply, especially in the case of a worker who left State or local employment at some point after coverage was terminated and who then entered covered private employment, or other public employment, covered under social security.

3. *Provide more restrictive conditions on the termination of coverage of State and local employees.*—There are various ways in which the conditions for termination could be made more restrictive by legislation rather than by renegotiation of the State coverage agreements. For example, a referendum in which a majority of employees had to vote for termination of coverage could be required before a State could terminate. Another way would be to require certification by an independent actuary that the total protection (from all sources) provided for the group would not be impaired because of termination. Such a restriction would protect the employees involved and would be consistent with the policy of the Congress, enunciated when coverage was first made available to State and local retirement system members, that there be no impairment of the protection of the retirement system members by reason of the extension of social security coverage to their employment.

The major problem with this type of approach is that it could raise the issue of whether the provision altered the terms of the State's coverage agreement without the State's consent.

4. *Withhold from grants to the States the excess cost to the social security trust funds arising out of termination of coverage.*—Under this approach, the adverse effects on the social security trust funds resulting from paying windfall benefits to terminated State and local employees would be avoided by providing that the amount of the windfall benefits paid to State and local employees for whom coverage was terminated could be withheld from Federal grants or other Federal revenues given the State. (Social security benefits paid to the workers involved would not be affected.)

Under present Federal law agencies may withhold grants to fulfill a liability incurred by a State. For example, section 218(j) of the Social Security Act permits the Secretary of Health, Education, and Welfare to withhold amounts of social security contributions owed by the State from any grants made to the State under the Social Security Act. However, there is a real problem in withholding monies from grants under the Social Security Act, because the result would be the deprivation of some individuals of needed aid under social welfare programs. Also, this approach would not reduce the incentives for State and local employees to seek termination and would only partially deter the States from seeking termination for financial reasons since the loss of grant revenues on account of windfalls arising out of termination would be considerably less than the social security employer contributions the States would have to pay if coverage were not terminated.

Another important problem with this approach is that it would be difficult to closely estimate the amount of the windfall; it would be necessary to have detailed information concerning such matters as the age distribution, earnings potential, and turnover rates of terminated employees. There would no doubt be strong disagreements between the parties concerned as to the proper amount of the adjustment.

Social Security Coverage of Federal Civilian Employment

PRESENT LAW

The Social Security Act excludes from coverage Federal civilian employment that is covered under a staff retirement system (such as the civil service retirement (CSR) system) established by a law of the United States. For the calendar quarter ending December 31, 1975, out of a total of 2.7 million Federal civilian employees about 2.4 million were excluded from social security coverage because they were covered under a Federal staff-retirement system. About 350,000 employees not covered under staff-retirement systems were covered by social security.

LEGISLATIVE HISTORY

The Social Security Act of 1935 excluded from coverage all civilian employment for the Federal Government or for an instrumentality of the United States. (All other public employment, as well as all self-employment and private employment other than in industry and commerce, was also excluded.) At that time the Federal CSR system had been in existence for 15 years and was well established. Most Federal civilian employment was covered under the CSR system or one of the smaller Federal retirement systems and there seemed to be no need for Federal employees to be covered under two retirement systems.

The Social Security Amendments of 1939 extended social security coverage to U.S. instrumentalities with the exception of those wholly owned by the United States or specifically exempted by any law.

The Social Security Amendments of 1950, as part of a major expansion of the social security program, covered (1) employees of the United States Government or of wholly owned corporations of the United States who were not covered under any Federal retirement system (these generally were short-term Federal employees, whose employment was irregular, intermittent, or of limited or uncertain duration, who were considered likely to shift between Federal and private employment) and (2) employees of certain types of instrumentalities of the Federal Government who were already covered by staff-retirement systems but whose employers sought social security coverage as a means of improving the retirement protection of their employees at a reasonable additional cost. These amendments specifically excluded from coverage services performed by Members of Congress and legislative employees.

PROBLEMS RESULTING FROM LACK OF SOCIAL SECURITY COVERAGE

The exclusion of Federal civilian employment from social security coverage has resulted in two major problems which have long been recognized. These problems are related mainly to the large number of

workers who shift between Federal employment and work covered under social security and are the same problems as those discussed previously which occur because some State and local employment is not covered under social security.

1. *Gaps in Protection.*—The first problem is that there are gaps in protection of many individuals who have worked under both the social security and CSR systems. Some individuals may qualify for benefits under only one system with the result that their benefits are not based on their lifetime earnings and contributions to both systems. Some fail to get benefits under either system. As an example, employees who become disabled or die after leaving Federal employment have no carry-over protection from their period of Federal service; the survivors or the disabled worker and his dependents may have no protection at all if the worker did not have enough employment covered under social security to become insured under social security. Also 80 percent of the workers who leave Federal employment before retirement withdraw their retirement contributions and thus have no retirement protection based on their Federal service.

There are also gaps in the disability and survivors protection of Federal employees who do not shift between Federal employment and other work but who have not completed very substantial periods of Federal service. It generally requires many more years of Federal service before a Federal civilian employee's family survivorship protection reaches the level that would have been provided under the social security system if his Federal service had been covered by social security. In some cases the CSR family survivorship protection never reaches the social security level regardless of the length of Federal service. In disability cases the CSR system guarantees a minimum benefit level after 5 years of Federal service for a disabled worker with no dependents which is generally higher than the benefit which would be payable under social security to a disabled worker with no dependents. However, if the disabled worker has dependents the CSR system family disability protection is in many cases less than social security would provide because social security provides benefits to family dependents while the CSR system provides benefits only to the disabled worker.

2. *Windfall Benefits.*—The second major problem resulting from the exclusion of Federal civilian employment from social security coverage is that many individuals who have worked under both the social security and CSR systems are able to qualify for social security benefits in addition to substantial CSR benefits. In many of these situations the social security benefits may be characterized as windfall benefits because, although they are in the lower benefit range, they are heavily weighted and represent a relatively high return on the worker's social security contributions. (For a full discussion of windfall benefits see the discussion under the State and local employment section.) This situation is unfair to all workers covered under social security and to their employers who must bear the cost of the windfall social security benefits payable to Federal employees.

A special study conducted in 1969 by the Social Security Administration in cooperation with the Civil Service Commission indicated that about 43 percent of civil service retirees were entitled to social security benefits. This figure is probably closer to 50 percent today

because of P.L. 89-504, which permitted Federal civil service employees, beginning in July 1966, to retire on an unreduced annuity at age 55 with 30 years of Federal service. As a result, many civil service employees now retire at younger ages and have more opportunity to acquire social security coverage; more civil service retirement annuitants are now under age 62, the age when social security retirement benefits are first payable. (On the other hand, the increasing social security insured status requirements make it somewhat more difficult for younger civil service employees to qualify for social security retirement benefits.)

**HISTORY OF EFFORTS TO REMEDY THE PROBLEMS THAT ARISE BECAUSE
FEDERAL EMPLOYEES ARE NOT COVERED UNDER SOCIAL SECURITY**

Since 1938 many groups have studied the situation and made various recommendations as to solutions. Following is a brief history of the studies and recommendations which have been made over the years concerning social security protection for Federal employees and of various attempts to act on these recommendations.

1938

The 1938 Advisory Council on Social Security recommended that the social security program be extended as soon as feasible to include additional groups not covered and that "studies should be made of the administrative, legal, and financial problems involved in the coverage of self-employed persons and governmental employees."

1948

The 1948 Advisory Council on Social Security recommended that social security coverage be extended immediately to Federal employees who were excluded from coverage under the CSR system. As a temporary measure designed to give protection to the short-term Government worker, the Council also recommended that the wage credits of all those who died or left Federal employment with less than 5 years' service be transferred to social security. In addition, the council said, "The Congress should direct the Social Security Administration and the agencies administering the various Federal retirement programs to develop a permanent plan for extending old-age and survivors insurance to all Federal civilian employees, whereby the benefits and contributions of the Federal retirement systems would supplement the protection of old-age and survivors insurance and provide combined benefits at least equal to those now payable under special retirement systems."

The Social Security Amendments of 1950 extended social security coverage to Federal civilian employees not protected under a staff-retirement system.

1952-1954

The Committee on Retirement Policy for Federal Personnel (the Kaplan Committee) created in 1952 pursuant to P.L. 555, 82d Congress, was directed to study, among other things, the relationship of

Federal retirement systems to one another and to the social security system. This committee in its 1954 report recommended specific plans under which virtually all personnel of the Federal Government (both civilian and military) would be covered under social security. Under the plan applicable to the CSR system, the civil service benefits and contributions would have been reduced (so as to reduce the cost of dual coverage for both employees and the Government) to take into account that social security benefits and contributions would be payable, but the overall protection afforded civil service employees would have been substantially improved.

The Congress extended coverage to members of the uniformed services, beginning in 1957.

1960-1966

In 1960 the Committee on Ways and Means in its report on the Social Security Amendments of 1960 requested the Social Security Administration and the Civil Service Commission to accelerate their efforts in finding a workable and sound solution to the problems resulting from lack of coverage of Federal civilian employment and to report the solution to the Congress at the earliest opportunity. In response to that request the 1965 Joint Report of the Civil Service Commission and the Social Security Administration entitled "Social Security and Federal Employment" recommended a transfer-of-credit plan, under which credit for the Federal employment of workers who die, become disabled, or leave work covered under the CSR system and are not eligible for protection under that system would be transferred to social security.

The 1965 Advisory Council on Social Security recommended a similar plan. In 1965 the President asked the Cabinet Committee on Federal Staff Retirement Systems to review the structure of the Federal Government's staff retirement systems and to recommend changes to make those systems fully effective and more equitable. The Cabinet Committee in its 1966 report to the President recommended that

(a) Employees subject to the CSR or the Foreign Service retirement systems who die, become disabled, or leave the Federal service and do not have protection under the staff-retirement system have their credits under the staff-retirement system transferred to social security;

(b) Employees and their survivors who become eligible for benefits under either of these staff-retirement systems be guaranteed that the benefit amount they receive under the staff system (or, if they are also eligible for social security benefits, under the staff-retirement system and social security together) be at least at the level that would be payable if their Federal service had been covered under social security; and

(c) All present Federal employees who desire the coverage, and all persons who in the future enter or reenter Federal employment that is covered only by a staff-retirement system, be covered under the health insurance provisions of social security.

These proposals were included in Administration bills in 1966 and 1967 but were not adopted by the Congress. In 1967 the Committee on Ways and Means in its report on the Social Security Amendments

of 1967 indicated awareness of the problem of the gaps in protection of Federal employees not covered under social security and stated that the committee had considered the transfer-of-credit plan as well as a plan for extension of social security coverage to Federal civilian employment. The committee believed that each of the ideas had merit but also believed that further study was needed and directed the Social Security Administration, in cooperation with employee groups and appropriate Federal agencies, to study the problems and make recommendations to resolve the problems on a basis fair to Federal employees and to all other workers.

1968

A Brookings Study in Social Economics, "Social Security Perspectives for Reform" recommended that social security coverage be extended to all Government employees, and Government employees' pension programs be made supplementary to basic social security protection. The study also recommended that if integration along these lines was not considered feasible, civil service workers whose period of employment was insufficient to provide adequate benefits be given transferable credits to the social security system to guarantee that Government employment would always produce a benefit at least as large as the same employment would produce under social security.

1969

In response to the 1967 request of the Committee on Ways and Means, the Social Security Administration in a report "Relating Social Security Protection to the Federal Civil Service" recommended a transfer-of-credit plan and minimum guarantee similar to those recommended in 1966 by the Cabinet Committee on Federal Staff Retirement Systems.

1971

The 1971 Advisory Council on Social Security recommended that the Congress give consideration to an approach under which earnings credits under social security and the CSR system of a worker who retires, becomes disabled, or dies, would be combined in cases when there is no benefit eligibility under one or either system so that benefits can be paid—under one system or the other—which take into account the worker's earnings under both systems.

The Committee on Ways and Means in its report on the Social Security Amendments of 1971 spoke of its long concern about the inequities and gaps in protection arising from the exclusion of Federal employment from social security coverage. The Committee noted that over the years various proposals to coordinate the social security and CSR systems had been advanced but none were completely acceptable and that since the recommendation of the 1971 Advisory Council (described above) was presented to the Committee late in its consideration of the 1971 legislation, there was insufficient time for the committee to consider the complex issues involved. The committee directed the Social Security Administration in consultation with organizations of Federal employees and the Civil Service Commission to give fur-

ther study to ways in which an acceptable, limited coordination between the two programs could be achieved and to submit a report to the committee by July 1, 1972. However, since it proved impossible for the various interested parties to agree on what would constitute a workable plan, no report was submitted to the committee.

1975

The 1975 Advisory Council on Social Security was concerned about the problems that arise because Federal civilian employment is not covered under social security and recommended that the Congress develop immediately ways of making the social security system applicable to virtually all gainful employment, giving special attention to those areas of employment in which coordinated coverage under social security and existing staff-retirement systems would assure that benefits were reasonably related to a worker's lifetime earnings and contributions.

ALTERNATIVE APPROACHES TO SOLVING THE PROBLEMS RESULTING FROM
EXCLUSION OF FEDERAL CIVILIAN SERVICE FROM SOCIAL SECURITY
COVERAGE

1. *Fully-additive Social Security Coverage.*—Under this approach social security coverage would be mandatorily extended to Federal employment covered by the CSR system without making any changes in the CSR system to take account of this protection. Federal employees and their employing agencies would each continue to contribute to the CSR system at the current rate and, in addition, would make contributions to the social security system at the current rate. Federal employees would receive full benefits under both systems.

This approach would solve the problems of gaps in protection and windfall benefits, but would go too far in that combined benefits under both systems would be very high when compared to prior earnings. In some cases the combined benefits would exceed the worker's salary at the time he retired. Moreover, this approach would be very costly to the Federal employees and the Government as employer. For example, for 1976 the combined employer-employee contributions to both systems would be 25.7 percent of each employee's salary up to \$15,300, and 14 percent of salary above \$15,300.

2. *Transfer-of-Credits Approach.*—One transfer-of-credits approach which has been considered in the past would be to combine earnings credits under the social security and CSR systems when a worker retired, became disabled, or died with no benefits eligibility under one or either system. This approach would remedy some of the problems of gaps in protection but not all—for example, it would do nothing to improve family disability or survivor protection under the CSR system. It would not solve the windfall problem as Federal employees eligible under both systems could still receive benefits under both systems. Another difficulty with this approach is that the Civil Service Commission has always opposed any plan that would grant credit under the CSR system for non-Federal employment on the basis that this would not be in accord with the staff-retirement system objective of rewarding long service for a particular employee.

Another transfer-of-credits plan, which would avoid the Civil Service Commission objection stated above, would be to transfer credits for Federal employment to social security if a worker retired, became disabled, or died with no benefit eligibility under the CRS system. However, like the first transfer-of-credits plan, this plan would only fill some of the gaps in protection and would not eliminate windfall benefits. Consideration has also been given to this transfer-of-credits plan combined with a guarantee to Federal employees that when there was eligibility under the CSR system the CSR benefits would be at least equal to the monthly amounts that would be payable if the Federal service had been covered under social security. This approach would still the remaining gaps in protection but would still not solve the windfall problems.

3. *Voluntary Social Security Coverage.*—Under this approach (which has been supported by some organizations of Federal employees) Federal employees would be permitted to elect social security coverage on an individual basis, with no changes made in the CSR system. Employees who elected coverage would pay social security employee contributions in addition to their CSR contributions. The Government, as employer, would pay social security employer contributions in addition to CSR contributions. Employees would be able to receive full benefits under both systems.

This approach has the difficulties discussed under the fully additive approach of excessively high cost for employees and for the Government and of excessively high combined benefits under both systems. In addition, this approach would not fully solve either of the problems of gaps in protection or windfall benefits since not all Federal employees would elect social security coverage. Relatively low-paid Federal employees who would be most in need of the social security protection would be inclined not to elect to pay the additional social security contributions because of pressing day-to-day needs. Participation in the social security program would tend to be concentrated in the group of employees who were higher paid and could afford the additional contributions and who were higher cost risks in that they expected to receive a large return on their contributions. The Government's increased contributions would go largely toward increased benefits for this group.

4. *Social Security Offset.*—Under an offset approach a reduction would be made in any social security benefits payable to an individual who was also entitled to a CSR benefit. This could be achieved in a variety of ways, one of which is discussed in the section on State and local employment. This approach would eliminate the problem of windfall benefits but would do nothing to solve the problem of gaps in protection. In addition, it has proved impossible to develop an offset method which would provide equitable results and yet be feasible for the Social Security Administration to administer, as discussed in the section on State and local employment.

5. *Coverage-Coordination.*—The most effective approach for eliminating both the problems of the gaps in protection and the windfall benefits would be the extension of compulsory social security coverage to Federal employment with modification in the CSR system to take account of the social security coverage. This approach, which has been

recommended many times in the past, would result in Federal employees having the same basic-plus-supplemental combination of social security and staff-retirement system protection that has long been provided for workers in other areas of employment. Under the coverage-coordination plan, the worker would always have social security protection, based on coverage of all of his work and regardless of shifts between Federal service and other work. It would no longer be possible, for example, for the worker who qualifies for a substantial CSR benefit to also obtain a social security benefit based on a relatively short period of work covered by social security, and which might be disproportionately large in relation to the amount of covered work and social security contributions. The Social Security Administration estimates that extending social security coverage on a mandatory basis to Federal civilian employment would over the long-range future result in a reduction of costs of about 0.17 percent of taxable payroll to the social security cash benefits program and 0.06 percent to the hospital insurance program. Contributions would exceed benefit payments by large amounts shortly after extension of coverage (by an estimated \$47.2 billion for 1977 through 1982) but such balances would decrease as benefits based on newly covered employment rose rapidly in the future.

There are two major difficulties with this approach. The first is the traditional opposition of organizations of Federal employees to any coordination of the CSR system with social security because they fear that once social security coverage was provided, the role of the CSR system in providing protection for Federal employees would become much less important and that further improvements in their retirement, disability, and survivors protection would tend to be limited to those made in the social security system.

The second problem is that increased early-year costs would be necessary in order to prevent deliberalizations for current Federal employees. Under any plan extending social security coverage to Federal employees, with employees qualifying for independently computed benefits under social security and CSR based on the same period of Federal service, there would likely be need to provide some increases in benefits in situations where existing benefits are already reasonably adequate, in order to avoid deliberalizing present benefits for some employees. This technical factor could result in an additional cost for improvements which may not be essential to achievement of the basic objective. Increased long-range costs could be avoided by extending social security coverage only to Federal workers hired after the effective date of coverage and to Federal workers not qualified for CSR benefits as of that date.

INDEPENDENT DEVELOPMENT OF THE TWO SYSTEMS

The problems in developing a satisfactory proposal for providing social security protection for Federal employees in coordination with the CSR system are different than they were in past years because of the improvements that have been made in both systems in the last 20 years. The more important changes made in the provisions of the CSR system during those two decades are:

(a) The basic annuity formula was changed to produce larger annuities;

(b) The high-5-year average basis for computing an annuity was reduced to a high-3-year average;

(c) A guarantee was provided to generally improve the disability annuities of relatively short-to-medium term employees and the survivor annuities of dependents of such employees;

(d) Automatic cost-of-living increases were provided for annuity payments made to annuitants already on the rolls; and

(e) Annuitants were guaranteed that their annuities would not be less than the prevailing minimum primary insurance amount payable by social security.

As a result of these improvements, the retirement system is paying more liberal benefits to age-and-service retirees, disability retirees, and survivors with a large increase in the cost of the system.

Social Security Coverage of Employees of Nonprofit Organizations

PRESENT LAW

Work performed for a nonprofit religious, charitable, educational, or other tax-exempt organization specified in section 501(c)(3) of the Internal Revenue Code is covered under social security if the organization files a certificate with the Internal Revenue Service waiving its exemption from social security taxation. (Work performed for other nonprofit organization is covered compulsorily.) Work performed by an employee of a tax-exempt nonprofit organization is covered only if the remuneration paid for such work is \$50 or more in a calendar quarter. The organization can elect up to 5 years of retroactive coverage for its employees at the time it files its waiver certificate. The waiver certificate must be accompanied by a list of workers who are employed when the waiver is filed, or were employed in the retroactive period, who desire to be covered under social security; employees hired (or rehired) in the future are covered compulsorily. The organization can amend the list of employees who desire coverage to include additional employees during the 2 year period following the calendar quarter in which the waiver certificate is filed.

Nonprofit organizations may terminate coverage for their employees upon giving 2 years' advance notice but the notice may not be given until the coverage has been in effect for at least 8 years. Also, the Secretary of the Treasury can terminate the coverage if an organization is no longer able to meet the requirements of section 501(c)(3) of the Code or if it is unable to pay the required social security contributions. Under present law, once coverage has been terminated for a nonprofit employer, the employer cannot again provide social security coverage for its employees.

HISTORY OF THE DEVELOPMENT OF COVERAGE

The traditional tax exemption provided to religious and charitable organizations had made it seem necessary to exclude employees of these organizations from coverage under the social security program. By 1950, however, it seemed that employees of these organizations and the organizations themselves favored coverage provided that it could be done in a way which would not endanger their tax-exempt status. Coverage for employees of nonprofit organizations was provided under the Social Security Amendments of 1950. In the years following 1950, the law was amended from time to time to permit validation of earnings which were erroneously reported due to misunderstanding about the provisions for covering the employees, and the time period in which an organization could amend its list of concurring employees was extended until it became 2 years following the calendar quarter in which the waiver certificate is filed.

COVERAGE AND TERMINATIONS OF COVERAGE

At present about 90 percent of the roughly 4 million employees of nonprofit organizations included in section 501(c)(3) of the Internal Revenue Code are covered under social security. Of those employees not covered under social security about 210,000 could be covered if the employing organizations waived their tax-exempt status and the employees chose to be covered, and about 150,000 are excluded by Federal law because they are paid less than \$50 for work performed in a calendar quarter or because the services they perform are excluded from social security coverage. Over the years a total of about 133,000 organizations have waived their tax-exempt status and provided coverage for their employees. Coverage under the provisions in the law applicable to nonprofit employers has been terminated for about 131 of these organizations. (The number of employees whose coverage was terminated is not known.) In some cases the organizations voluntarily chose to terminate the coverage; in others the termination resulted from action of the Secretary of the Treasury. When the Secretary of the Treasury terminates coverage because the organization no longer meets the requirements of section 501(c)(3) of the Code (e.g., it loses its tax-exempt status), the employees of the organization are covered under social security on a compulsory basis under other provisions of law governing the coverage of such employees.

EXTENT OF SOCIAL SECURITY COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS, 1951-75

[In thousands of workers in June of each year]

Year	Total number of employees	Number of employees covered under social security	Number of employees not covered under social security
1951.....	3,400	NA	NA
1952.....	3,830	500	3,330
1953.....	3,670	730	2,940
1954.....	4,200	960	3,240
1955.....	4,340	1,210	3,130
1956.....	4,480	1,840	2,640
1957.....	4,610	2,136	2,474
1958.....	4,960	3,000	1,960
1959.....	5,210	3,100	2,110
1960.....	5,410	3,300	2,110
1961.....	5,590	3,200	2,390
1962.....	6,020	3,800	2,220
1963.....	6,460	4,000	2,460
1964.....	6,600	4,700	1,900
1965.....	6,890	4,900	1,990
1966.....	7,260	5,600	1,660
1967.....	8,030	6,200	1,830
1968.....	8,710	6,300	2,410
1969.....	8,890	6,600	2,290
1970.....	9,700	6,600	3,100
1971.....	10,380	7,060	3,320
1972.....	10,730	7,300	3,430
1973.....	11,100	7,550	3,550
1974.....	11,570	7,870	3,700
1975.....	12,390	8,670	3,720

Source: Social Security Administration, Bureau of Data Processing.

EXTENT OF SOCIAL SECURITY COVERAGE OF FEDERAL CIVILIAN EMPLOYEES, 1951-75

[In thousands of workers in June of each year]

Year	Total number of employees	Number of employees covered under social security	Number of employees not covered under social security
1951	2,200	620	1,580
1952	2,520	710	1,810
1953	2,160	640	1,520
1954	2,250	550	1,700
1955	2,220	450	1,770
1956	2,190	290	1,900
1957	2,190	140	2,050
1958	2,170	170	2,000
1959	2,150	190	1,960
1960	2,140	170	1,970
1961	2,220	170	2,050
1962	2,300	180	2,120
1963	2,310	170	2,140
1964	2,340	180	2,160
1965	2,410	280	2,130
1966	2,650	320	2,330
1967	2,840	350	2,490
1968	2,820	360	2,460
1969	2,880	360	2,520
1970	2,760	330	2,430
1971	2,680	300	2,380
1972	2,660	360	2,300
1973	2,630	320	2,310
1974	2,750	290	2,460
1975	2,770	300	2,470

Source: Social Security Administration, Bureau of Data Processing.

EXTENT OF SOCIAL SECURITY COVERAGE OF EMPLOYEES OF NON-PROFIT ORGANIZATIONS, 1951-75

[In thousands of workers in June of each year]

Year	Total number of employees	Number of employees covered under social security	Number of employees not covered under social security
1951	1,260	700	560
1952	1,360	790	570
1953	1,590	880	710
1954	1,570	910	660
1955	1,350	1,130	220
1956	1,400	1,170	230
1957	1,640	1,204	436
1958	1,860	1,230	630
1959	1,800	1,300	500
1960	1,980	1,500	480
1961	2,080	1,600	480
1962	2,090	1,600	490
1963	2,170	1,700	470
1964	2,220	1,600	620
1965	2,380	1,800	580
1966	2,340	1,700	640
1967	2,680	2,100	580
1968	2,720	2,100	620
1969	3,070	2,670	400
1970	3,320	2,820	500
1971	3,380	2,890	490
1972	3,050	2,620	430
1973	3,330	2,890	440
1974	3,510	3,130	380
1975	3,910	3,550	360

Source: Social Security Administration, Bureau of Data Processing.

**NUMBER OF STATE AND LOCAL GOVERNMENT GROUPS AND EMPLOYEES NEWLY COVERED UNDER SOCIAL SECURITY
OR WHOSE COVERAGE HAS BEEN TERMINATED IN THE PERIOD 1973-75—BY STATE¹**

State	Coverage extended		Coverage terminated		Net gain or loss of coverage of employees
	Number of groups	Number of employees ²	Number of groups	Number of employees	
Alabama.....	74	750	0	0	+750
Alaska.....	20	921	0	0	+921
Arizona.....	13	942	0	0	+942
Arkansas.....	38	162	0	0	+162
California.....	88	2,981	77	18,414	-15,433
Colorado.....	38	205	4	382	-177
Connecticut.....	25	256	0	0	+256
Delaware.....	8	108	0	0	+108
Florida.....	60	1,306	0	0	+1,306
Georgia.....	60	3,098	4	615	+2,483
Hawaii.....	0	0	0	0	0
Idaho.....	40	92	0	0	+92
Illinois.....	230	3,354	0	0	+3,354
Indiana.....	49	3,308	0	0	+3,308
Iowa.....	70	704	0	0	+704
Kansas.....	63	485	0	0	+485
Kentucky.....	71	1,638	0	0	+1,638
Louisiana.....	26	441	33	5,331	-4,890
Maine.....	23	212	1	14	+198
Maryland.....	16	1,689	0	0	+1,689
Massachusetts.....	0	0	0	0	0
Michigan.....	93	1,363	0	0	+1,363
Minnesota.....	119	926	0	0	+926
Mississippi.....	50	974	0	0	+974
Missouri.....	132	1,576	0	0	+1,576
Montana.....	21	83	0	0	+83
Nebraska.....	45	2,565	0	0	+2,565
Nevada.....	8	181	0	0	+181
New Hampshire.....	11	58	0	0	+58
New Jersey.....	55	1,935	0	0	+1,935
New Mexico.....	21	697	0	0	+697
New York.....	62	1,734	0	0	+1,734
North Carolina.....	94	6,918	0	0	+6,918
North Dakota.....	30	61	0	0	+61
Ohio.....	1	3	0	0	+3
Oklahoma.....	62	1,655	0	0	+1,655
Oregon.....	59	328	0	0	+328
Pennsylvania.....	219	1,920	0	0	+1,920
Puerto Rico.....	0	0	0	0	0
Rhode Island.....	3	21	0	0	+21
South Carolina.....	54	638	0	0	+638
South Dakota.....	23	93	0	0	+93
Tennessee.....	58	799	0	0	+799
Texas.....	117	3,044	24	2,842	+202
Utah.....	12	154	0	0	+154
Vermont.....	30	240	0	0	+240
Virginia.....	36	2,228	0	0	+2,228
Virgin Islands.....	1	198	0	0	+198
Washington.....	38	1,581	9	804	+777
West Virginia.....	34	357	0	0	+357
Wisconsin.....	52	1,183	0	0	+1,183
Wyoming.....	29	2,211	0	0	+2,211
Interstate.....	6	146	0	0	+146
Instrumentalities.....	6	146	0	0	+146
Total.....	2,587	58,522	152	28,402	+30,120

¹ The term "group" for termination purposes is generally broader than for coverage purposes. For example, a city which is a single group for termination purposes may include a number of groups within the city that were covered at different times (e.g. groups of employees under policemen, firemen, teachers', and city retirement systems).

² Represents the number of positions covered for the first time due to modification of State coverage agreements. Does not include increases in the number of covered positions which result from automatic coverage when (1) the work force in a covered entity is expanded, or (2) a job vacated by an employee who had not elected coverage in an entity in which coverage was effected by the divided retirement system approach is filled by a new employee, or (3) there are noncovered positions in a group that becomes part of another group that had been previously covered.

Source: Social Security Administration, Bureau of Data Processing.

1: NUMBER OF STATE AND LOCAL GOVERNMENT GROUPS¹ AND EMPLOYEES NEWLY COVERED UNDER SOCIAL SECURITY OR WHOSE COVERAGE HAS BEEN TERMINATED IN THE PERIOD 1967-75—BY YEAR

Year	Newly covered		Terminated		Net gain or loss of coverage
	Number of groups	Number of employees ²	Number of groups	Number of employees	
1967.....	1,000	67,473	11	323	+67,150
1968.....	1,717	76,925	14	863	+76,062
1969.....	938	84,351	20	1,262	+83,089
1970.....	1,031	58,039	29	2,493	+55,546
1971.....	1,011	56,558	33	2,837	+53,721
1972.....	944	34,881	41	6,951	+27,930
1973.....	709	20,231	33	4,892	+15,339
1974.....	821	21,281	68	8,405	+12,876
1975.....	1,057	17,010	51	15,105	+1,905
Total.....	9,228	436,749	300	43,131	+393,618

¹ The term "groups" for termination purposes is much broader than for coverage purposes. For example, a city which is a single group for termination purposes may include a number of groups within the city that were covered at different times (e.g. groups of employees under policemen, firemen, teachers' and city retirement systems).

² Represents the number of positions covered for the first time due to modification of State coverage agreements. Does not include increases in the number of covered positions which result from automatic coverage when (1) the work force in a covered entity is expanded, or (2) a job vacated by an employee who had not elected coverage in an entity in which coverage was effected by the divided retirement system approach is filled by a new employee, or (3) there are noncovered positions in a group that becomes part of another group that had been previously covered.

Source: Social Security Administration, Bureau of Data Processing.

NUMBER OF STATE AND LOCAL GOVERNMENT GROUPS AND EMPLOYEES WHOSE SOCIAL SECURITY COVERAGE WILL HAVE BEEN TERMINATED BY MARCH 31, 1978—BY YEAR¹

Year	Number of groups	Number of employees
1959.....	1	3
1960.....	0	0
1961.....	1	5
1962.....	0	0
1963.....	2	41
1964.....	10	132
1965.....	4	105
1966.....	5	33
1967.....	11	323
1968.....	14	863
1969.....	20	1,262
1970.....	29	2,493
1971.....	33	2,837
1972.....	41	6,951
1973.....	33	4,892
1974.....	68	8,405
1975.....	51	15,105
1976.....	56	8,197
1977.....	154	66,677
1978.....	35	379,983
Total.....	568	498,307

¹ First termination occurred in 1959. Figures for 1976 through 1978 based on notices of termination filed 1973 through March 1976.

Source: Social Security Administration, Bureau of Data Processing.

NUMBER OF STATE AND LOCAL GOVERNMENT EMPLOYEES WHOSE SOCIAL SECURITY COVERAGE WILL HAVE BEEN TERMINATED BY APR. 1 1978, COMPARED WITH NUMBER OF COVERED EMPLOYEES IN JUNE 1975—BY STATE

State	Number of employees for whom coverage was terminated prior to June 30, 1975	Persons in covered positions in calendar quarter ending June 1975 ¹	Number of employees for whom coverage will have been terminated from July 1, 1975 to Apr. 1, 1978 ²
Alabama	0	222,553	0
Alaska	0	28,101	12,649
Arizona	0	140,257	0
Arkansas	0	107,266	0
California	13,124	567,050	61,634
Colorado	848	43,972	239
Connecticut	0	98,760	0
Delaware	0	34,753	0
Florida	0	394,172	0
Georgia	563	268,776	2,840
Hawaii	0	36,421	0
Idaho	1	61,637	0
Illinois	1	242,012	0
Indiana	270	274,372	0
Iowa	0	186,206	0
Kansas	0	149,134	0
Kentucky	4	129,846	0
Louisiana	9,699	87,391	24,718
Maine	31	25,016	439
Maryland	3	253,419	0
Massachusetts	31	114	0
Michigan	0	506,616	3
Minnesota	0	173,853	0
Mississippi	0	139,457	0
Missouri	0	212,323	68
Montana	0	53,690	0
Nebraska	0	115,947	0
Nevada	347	2,547	6
New Hampshire	0	48,924	0
New Jersey	0	435,513	0
New Mexico	0	69,629	0
New York	0	1,126,381	362,000
North Carolina	0	325,457	0
North Dakota	0	44,147	0
Ohio	0	3,250	0
Oklahoma	0	153,331	0
Oregon	0	153,125	17
Pennsylvania	0	695,556	0
Puerto Rico	0	233,385	0
Rhode Island	0	40,074	0
South Carolina	0	172,898	0
South Dakota	0	35,041	0
Tennessee	153	203,029	0
Texas	4,420	425,538	3,853
Utah	2	79,860	0
Vermont	0	29,562	0
Virginia	0	306,586	0
Virgin Islands	0	11,878	0
Washington	1,036	247,820	526
West Virginia	0	107,756	0
Wisconsin	0	272,539	0
Wyoming	0	31,768	0
Total	30,532	9,810,708	468,992

¹ Takes account of all covered employees in the calendar quarter. When an employee leaves his job and another employee fills the vacancy both employees are counted. A representative number of employees in State and local employment at one point in time during this calendar quarter would be about 8,670,000.

² Takes account of notices of termination that were filed between Apr. 1, 1973 and Mar. 31, 1976.

Source: Social Security Administration, Bureau of Data Processing.

ESTIMATED AMOUNT OF REDUCTION IN THE EXCESS OF TRUST-FUND INCOME OVER OUTGO RESULTING FROM TERMINATION OF COVERAGE UNDER THE OASDI AND HI PROGRAMS,¹ FOR SELECTED GROUPS OF STATE AND LOCAL GOVERNMENT EMPLOYEES, CALENDAR YEARS 1978-82

(In billions)

Calendar year	Termination of coverage for—					
	6 New York City government entities ²			Half of all State and local government employees ³		
	OASDI	HI	Total	OASDI	HI	Total
1978.....	\$0.2	\$0.1	\$0.3	\$1.7	\$0.4	\$2.0
1979.....	.5	.1	.6	5.6	1.2	6.8
1980.....	.5	.1	.6	6.6	1.4	8.0
1981.....	.6	.1	.7	7.6	1.9	9.5
1982.....	.7	.2	.9	8.7	2.2	10.9

¹ Estimates represent net effect of reduction in contribution income and decrease in expenditures, resulting from termination of coverage, with appropriate adjustment for interest.

² The 6 New York City government entities that have given notice of termination of coverage effective March 1978.

³ Termination of coverage assumed to be effective June 1978.

Note: Totals may not equal the sum of rounded components.

Source: Office of the Actuary.

ESTIMATED AMOUNT OF INCREASE IN THE EXCESS OF TRUST-FUND INCOME OVER OUTGO RESULTING FROM COMPULSORY COVERAGE, UNDER THE OASDI AND HI PROGRAMS,¹ FOR ALL FEDERAL, STATE, AND LOCAL GOVERNMENT EMPLOYEES, CALENDAR YEARS 1977-82

(In billions)

Calendar year	Compulsory coverage of all State and local government employees								
	At employer-employee contribution rates			At self-employment contribution rates			Compulsory coverage of all Federal Government employees		
	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	Total
1977.....	\$2.6	\$0.5	\$3.1	-\$0.2	-\$0.4	-\$0.6	\$3.9	\$0.7	\$4.6
1978.....	3.9	.8	4.7	-.3	-.7	-1.1	4.5	1.0	5.5
1979.....	4.5	.9	5.5	-.4	-.9	-1.3	5.3	1.1	6.5
1980.....	5.2	1.1	6.3	-.5	-1.1	-1.6	6.1	1.3	7.5
1981.....	5.8	1.4	7.3	-.8	-1.5	-2.2	6.9	1.8	8.7
1982.....	6.7	1.6	8.3	-.9	-1.8	-2.7	7.9	2.0	9.9

Calendar year	Compulsory coverage of all Federal, State, and local government employees						
	All at employer-employee contribution rates			State and local government employees at self-employment contribution rates			
	OASDI	HI	Total	OASDI	HI	Total	Total
1977.....	\$6.5	\$1.2	\$7.7	\$3.7	\$0.3	\$3.9	\$3.9
1978.....	8.4	1.8	10.2	4.2	.2	4.5	4.5
1979.....	9.9	2.1	11.9	4.9	.2	5.1	5.1
1980.....	11.4	2.4	13.8	5.6	.2	5.8	5.8
1981.....	12.8	3.2	16.0	6.2	.3	6.5	6.5
1982.....	14.6	3.7	18.2	7.0	.2	7.2	7.2

¹ Estimates represent net effect of increase in contribution income and additional expenditures, resulting from compulsory coverage, with appropriate adjustment for interest. Compulsory coverage of each group is assumed to become effective on Jan. 1, 1977.

Note: Totals do not necessarily equal the sum of rounded components.

Source: Office of the Actuary.



INTERNATIONAL AGREEMENT WITH ITALY
ON SOCIAL SECURITY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT BETWEEN THE UNITED STATES AND THE
ITALIAN REPUBLIC ON THE MATTER OF SOCIAL SECURITY,
PURSUANT TO SECTION 233(e) (1) OF THE SOCIAL SECURITY
ACT, AS AMENDED (91 STAT. 1538)



FEBRUARY 28, 1977.—Message and accompanying papers referred to
the Committee on Ways and Means and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

29-011

WASHINGTON : 1978

To the Congress of the United States:

In accordance with section 233(e)(1) of the Social Security Act as amended by the Social Security Amendments of 1977 (Public Law 95-216; 42 U.S.C. 1305 note), I transmit herewith the Agreement between the United States of America and the Italian Republic on the Matter of Social Security, signed May 23, 1973, the Administrative Protocol for the Agreement, signed November 22, 1977 (together with a procès-verbal setting forth certain interpretative understandings) and an exchange of notes of January 17-20, 1978 clarifying the interpretation of Article 1, paragraph K, of the Agreement.

The Agreement fulfills a long-standing commitment made by the two Governments in the 1951 Supplementary Agreement to their 1948 Treaty of Friendship, Commerce, and Navigation. This totalization agreement would be the first such agreement undertaken by the United States, but is in the tradition of a number of earlier treaties between the United States and Italy. The first U.S. treaty to deal with any aspect of social security was concluded with Italy in 1913, and the 1948 treaty of Friendship, Commerce, and Navigation with Italy was the first of the post-World War II era to contain broad social security provisions. This totalization agreement can be expected to be even more advantageous to Americans who have worked in Italy, either as U.S. citizens or before their immigration to this country, than any of the earlier treaties or agreements.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health, Education, and Welfare which explains the provisions of the agreement and provides the actuarial data on the number of persons affected by the agreements and the effect on social security financing as required by the same provision of the Social Security Amendments of 1977.

The Department of State and the Department of Health, Education, and Welfare join in commending this Agreement, Protocol and Exchange of Notes.

JIMMY CARTER.

THE WHITE HOUSE, *February 28, 1978.*

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE
ITALIAN REPUBLIC ON THE MATTER OF SOCIAL SECURITY

The President of the United States of America and
The President of the Italian Republic

Desirous of regulating the relations between the two States in the field of social security, in accordance with the principles established under Article VII of the Agreement signed at Washington, D.C., September 26, 1951, supplementing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic signed at Rome, February 2, 1948, have agreed to conclude an Agreement for that purpose and have therefore appointed as their plenipotentiaries:

The President of the United States of America:

Caspar W. Weinberger, Secretary of Health, Education, and Welfare, and

The President of the Italian Republic:

Dionigi Coppo, Minister of Labor and Social Welfare, who, having exchanged their full powers, found to be in good and due form, have agreed to the following provisions:

PART I. GENERAL PROVISIONS

ARTICLE 1

For purposes of the application of this agreement:

a. The term "territory" shall mean, as regards the United States of America, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa; and as regards the Italian Republic, Italy;

b. The term "national" shall mean, as regards the United States of America, "national of the United States" as defined in Section 101, Immigration and Nationality Act of 1952, as amended; and as regards the Italian Republic, an Italian national;

c. The term "laws", unless otherwise qualified, shall mean the laws, regulations, and any other measure concerning social security specified in article 2 of this agreement;

d. The term "competent authorities" shall mean the authorities responsible for the administration of the laws, and specifically: in the case of the United States of America: the Secretary of Health, Education, and Welfare (Ministro della Sanita, Educazione, e Previdenza Sociale); in the case of the Italian Republic: the Minister of Labor and Social Welfare (Ministro del Lavoro e della Previdenza Sociale);

e. The term "agency" shall mean for each Contracting State any agency, body or authority entrusted with the administration of an insurance system, under the laws specified in article 2 of this agreement;

f. The term "periods of coverage" shall mean the periods of payment of contributions or periods of earnings based on wages for employment or self-employment income, as defined or recognized as periods of coverage by the law under which such periods have been completed, or any similar periods insofar as they are recognized by such laws as equivalent to periods of coverage;

g. The term "workers" shall mean persons who have periods of coverage;

h. The term "family members" shall mean the persons defined as eligible for benefits on the earnings record or periods of coverage of a living worker, whichever is applicable, as established under the laws of each of the Contracting States;

i. The term "survivors" shall mean the persons defined as eligible for benefits on the earnings record or periods of coverage of a deceased worker, whichever is applicable, as established under the laws of each of the Contracting States;

j. The terms "benefits" and "pensions" shall mean any cash benefits payable under the laws specified in Article 2 of this Agreement;

k. The term "basic benefit amount" ("importo della prestazione") shall mean, as regards the United States of America, "primary insurance amount" as set forth in the table of benefits contained in section 215(a) of title II or deemed to be contained in such section of the Social Security Act of 1935, as amended, from which is derived by law the actual amount of the benefit which is payable; and as regards the Italian Republic, the amount of the benefit which is payable;

l. The term "beneficiary" shall mean any worker, family member or survivor who is entitled to benefits or pensions.

ARTICLE 2

1. For purposes of this Agreement the applicable laws relating to social security for disability, old-age, and survivorship are:

a. in the case of the Italian Republic, the legislation on compulsory general insurance for old-age, disability and survivors, as well as legislation providing benefits which are substitutes for benefits provided by said compulsory general insurance;

b. in the case of the United States of America, title II of the Social Security Act of 1935, as amended, and regulations promulgated under the authority provided therein, except sections 226 and 228 of such title and regulations pertaining to such sections; provided, however, that for the United States the totalization of the periods of coverage in accordance with this Agreement shall not apply to periods of voluntary coverage provided for by such laws.

2. Notwithstanding the provisions of paragraph 1, as regards the Italian Republic, the present Agreement will be applied to legislation concerning other social security systems for similar cases which will be indicated by the competent authorities of the Italian Republic.

3. This Agreement shall also apply to future laws amending or supplementing the laws specified in this article.

ARTICLE 3

1. The present agreement shall apply to workers who have periods of coverage under the laws, and to their family members or survivors.

2. The present agreement shall not apply to periods of service as a diplomatic or career consular officer, or officer of a chancery, nor, except insofar as provided under article 2.2, to periods of service covered under special systems for employees of the Government or of Government agencies or instrumentalities ("enti pubblici").

ARTICLE 4

The persons to whom the provisions of this agreement apply shall have the same rights and obligations under the social security laws of each Contracting State under the same conditions as if such persons were covered solely under the social security laws of such State, whether they reside in the territory of a Contracting State or in a third State.

ARTICLE 5

For the purposes of eligibility for voluntary or optional insurance, in accordance with the provisions of the laws of a Contracting State, the periods of coverage completed under the laws of such State shall be combined, where necessary, with the periods of coverage completed under the laws of the other State.

ARTICLE 6

Except as otherwise provided in this agreement, the persons eligible for benefits under the laws of one Contracting State, including benefits arising under this agreement, shall receive them fully and without limitation or restriction while they reside in the territory of the other State. Such benefits shall be paid by each State to persons to whom the provisions of this agreement apply who reside in a third State on the same terms and to the same extent that such benefits would be paid if such persons had been covered entirely under the social security laws of the paying State.

PART II. PROVISIONS RELATING TO THE APPLICABLE LAWS

ARTICLE 7

1. Persons to whom this agreement applies who are employed or self-employed (che svolgono la loro attivita) within the territory of one of the Contracting States shall be subject to the laws of such State, except as otherwise provided in this Article.

2. Services performed by a U.S. national in Italy which are covered under the laws of the United States shall remain covered under the laws of the United States.

3. Services performed by an Italian national in the United States for an Italian employer or for an enterprise controlled by an Italian firm shall be covered under the laws of Italy.

4. With respect to any services which are subject to the laws of both States, the following rules will be applied:

a. a national of one of the States who, with respect to the same period of work, would be subject to the laws of both States shall remain subject for such period to the laws of the State of which he is a national and shall be exempt from the laws of the State of which he is not a national;

b. a national of Italy or a national of both States who, with respect to the same period of work, would be subject to the laws of both States shall, for such period, elect to remain subject to the laws of one of the States and shall be exempt from the laws of the other State;

c. a person who is not a national of either State and who, with respect to the same period of work, is subject to the laws of both States shall be subject, for such period, to the laws of the State in which the work is performed and shall be exempt from the laws of the other State.

5. The exemptions provided under this article shall be effective when the agency of the State in which the periods of work are covered pursuant to paragraph 4 certifies to the agency of the other State that such periods of work are covered under its laws.

6. The competent authorities of the two States may agree in the interest of a worker or on behalf of categories of workers to other exceptions to the rule provided in paragraph 1.

PART III. SPECIAL PROVISIONS: DISABILITY, OLD-AGE, AND SURVIVORSHIP

ARTICLE 8

1. With respect to a period of work which results in a period of coverage under the laws of both Contracting States, the agency of each State shall for purposes of article 8.2 and article 9.2 take into consideration the period of coverage which results under the laws of that State.

2. If the laws of one State require completion of periods of coverage as a prerequisite for the acquisition, retention, or recovery of the right to benefits, the agency which applies such laws shall take into consideration, for such purpose, insofar as necessary, the periods of coverage completed under the laws of the other State, as if these were periods of coverage completed under the laws of the first State. Such agency shall take into consideration all the periods of coverage required to ensure the right to the fullest benefits provided for by the laws which it applies.

3. If the laws of a State establish as a condition for receiving certain benefits that the periods of coverage be completed in a given profession or occupation which is subject to a special system of insurance, in determining eligibility for such benefits only the periods completed under a corresponding system of the other State or, failing that, in the same profession or occupation—even if a special system for said profession or occupation does not exist in the other State—shall be counted. If the total of such periods of coverage does not result in entitlement under the special system, such periods shall be used to determine eligibility for benefits of the general system of insurance or some other applicable system of insurance; provided, however, that the provisions of this paragraph shall apply only when they would result in payment of the highest possible benefit amount.

4. The agency of Italy shall not be obliged to apply the provisions of this article in the case of a worker who has less than one year of coverage under the Italian law; the agency of the United States

shall not be obliged to apply the provisions of this article in the case of a worker who has less than 6 quarters of coverage under the U.S. law.

ARTICLE 9

1. When a worker, family member, or survivor satisfies the conditions imposed by the laws of a Contracting State for eligibility for benefits, without the need to invoke the provisions of Article 8, the agency of that State shall establish, according to the provisions of the said laws, the basic benefit amount based on the total periods of coverage completed by the worker under the laws of such State.

2. Whether or not paragraph 1 applies, the agency of each of the States shall determine the theoretical basic benefit amount by considering all the periods of coverage completed under the laws of the two States as if they had been completed exclusively under its own laws. The agency in question shall then establish the pro rata basic benefit amount on the total periods of coverage completed under the laws which it applies to the total of all the periods of coverage completed under the laws of the two States.

3. The worker shall elect within a specified time whether benefits shall be awarded by each of the States in accordance with the provisions of paragraph 1 or paragraph 2, and such election shall be applicable to all benefits payable to the worker and family members by each State.

4. In the case of survivors, benefit amounts shall be established by each of the States under the provisions of paragraphs 1 and 2. Survivors benefits shall be awarded by each of the States based on the provisions of either paragraph 1 or 2, whichever results in the higher total benefits payable, unless all survivors eligible for benefits elect to receive the lower total benefits payable.

5. The elections provided for in paragraph 3 and paragraph 4 shall be final, except in situations where Article 11 applies.

ARTICLE 10

1. For purposes of the computation of the theoretical basic benefit amount, the agency of each Contracting State shall take account of a worker's earnings in the other State in the following manner:

a. as regards the agency of the United States, the earnings in any year to be taken into consideration for periods of coverage completed under Italian laws shall be the equivalent of the earnings credited under the system of insurance in Italy for such year, subject to the maximum creditable earnings limitation under the laws of the United States for such year.

b. as regards the agency of the Italian Republic, for the periods of coverage completed under the laws of the United States there shall be credited the average salary or average contributions derived exclusively from the salary received or the credited contributions resulting from the periods of coverage completed under the laws of Italy.

2. If, under the laws of one State, the amount of benefits varies according to the number of family members or survivors, the agency of such State shall also take into account family members or survivors who are residing in the territory of the other State.

ARTICLE 11

1. Upon application, benefits awarded under the provisions of article 9.2 shall be recomputed by both States in accordance with the provisions of article 9.2 to take into account additional periods of coverage completed under the laws of either Contracting State.

2. Notwithstanding the provisions of article 9.5, benefits shall be recomputed under the provisions of article 9 when:

a. a worker who has made an election under article 9.3 subsequently becomes eligible for benefits under the laws of one or both States without the need to invoke the provisions of article 8; or

b. the method of computing benefits under the system of insurance of a State is changed by amendments to the law governing such computations.

3. Notwithstanding the provisions of article 9.5, if the entitlement of all beneficiaries receiving benefits under the provisions of article 9 terminates, the benefits of any person who later becomes entitled to benefits based on the periods of coverage of the same worker shall be computed under the provisions of article 9.

ARTICLE 12

If the beneficiary becomes eligible under article 9.2 for benefits paid by the agencies of both Contracting States and if the amount of such combined benefits is less than the benefit amount which would be payable, based on the minimum basic benefit amount, to such beneficiary by the agency of the State in which he resides, the agency of that State shall, at its own expense, pay the difference between the amount of such combined benefits and the amount of benefits which would be payable to such beneficiary based on such minimum basic benefit amount.

PART IV. MISCELLANEOUS, TRANSITORY, AND FINAL PROVISIONS

ARTICLE 13

The competent authorities and agencies of the two Contracting States shall assist each other in applying the present agreement as if they were applying their respective laws; such reciprocal assistance shall be free of charge.

ARTICLE 14

1. The competent authorities of the two Contracting States shall by mutual agreement establish such administrative procedures as may be required to implement this agreement and each competent authority shall designate one coordinating agency or organization to facilitate the application of this agreement.

2. The competent authorities of the two States shall communicate to each other all information relating to regulations, administrative procedures, and amendments to their laws which may affect the application of this agreement.

ARTICLE 15

The diplomatic and consular authorities of each Contracting State shall be empowered to address themselves directly to the competent authorities or agency of the other State in order to obtain useful information for safeguarding the interests of their own nationals, and may represent them without special mandate.

ARTICLE 16

1. Exemptions from duties, taxes, and fees provided for by the laws of either State shall also be valid for the application of the present agreement, irrespective of the nationality of the beneficiaries.

2. The requirements imposed by the laws or regulations of either Contracting State relating to the certification ("legalizzazione") of all certificates or other documents shall be applied in respect to all certificates or other documents which must be presented for purposes of the application of this agreement.

3. The certification as to the authenticity of a certificate or document, or a copy thereof, by the competent authorities or agency of one State shall be accepted as authentic by the competent authorities or agency of the other State.

ARTICLE 17

The competent authorities and the designated coordinating agencies or organizations of the two Contracting States may correspond directly with each other and with any persons wherever they may reside, whenever such correspondence is necessary for the administration of this agreement. Correspondence may be drafted in the writers's official language.

ARTICLE 18

The petitions which the beneficiaries address to the competent authorities or agency of either Contracting State for the application of the present agreement may not be rejected merely because they are written in the official language of the other State.

ARTICLE 19

1. The applications and other documents presented in writing to the competent authorities or agency of either Contracting State shall have the same effect as if they were presented to the corresponding authorities or agency of the other State.

2. An application for benefits filed with the competent authorities or agency of one State is to be considered as an application for the payment of benefits by the agency of the other State, if the applicant explicitly requests that his application be so considered.

3. An appeal which must be filed within a given period of time with the competent authorities or agency of one of the States shall be considered to have been filed within such time limit if the appeal has been filed within such a period of time with the competent authorities or agency of the other State. In such case the authorities or agency with which an appeal is filed shall without delay transmit

the said appeal to the competent authorities or agency of the other State, and acknowledge to the appellant that the appeal has been received.

ARTICLE 20

1. The competent authorities of the two Contracting States shall jointly establish procedures to resolve any problems or disagreements which may arise with regard to the application or interpretation of the present Agreement.

2. The competent authorities of the two States shall establish a permanent arbitration procedure for the consideration and resolution of any problems or disagreements which cannot be resolved under procedures established in accordance with paragraph 1. The arbitral body established under this paragraph shall settle questions referred to it in accordance with the principles of this Agreement. Decisions of the arbitral body shall be final and binding for purposes of the question referred to it, on the competent authorities and agencies of both States.

3. The arbitral body established under paragraph 2 shall consist of three members. The competent authorities of the two States shall each designate one member. The third member shall be designated by agreement of the two competent authorities.

ARTICLE 21

1. Pending the final determination of a beneficiary's rights under this Agreement, including settlement of any question under article 20 between the competent authorities and agencies of the two Contracting States, the beneficiary whose rights are involved shall be awarded provisional benefits in accordance with this Article until such time as such determination has been made.

2. Each agency shall award the beneficiary, as provisional benefits, the benefits, if any, to which he would be entitled under its own laws or under this Agreement.

3. a. The agencies of both States shall establish procedures for adjusting their respective liabilities for benefits during the period in which provisional benefits were paid pending the final determination referred to in paragraph 1.

b. In giving effect to such procedures, the agency of either State shall withhold from payments it makes, based on the rights of a beneficiary as finally determined, amounts permitted by the laws of that State sufficient to reimburse the agency of the other State for amounts paid as provisional benefits in excess of the amounts finally awarded to such beneficiary.

ARTICLE 22

1. The agencies of the Contracting States, which have obligations relating to benefits to be paid in the other State under the present agreement, shall validly discharge such obligations in the currency of their own State.

2. In case provisions designed to restrict the exchange of currencies are issued in either State, both Governments shall immediately adopt the necessary measures to insure, in conformity with the provisions of the present agreement, the transfer of sums owed by either party.

ARTICLE 23

1. The provisions of this agreement shall apply to any application for benefits (including a new application of an individual who has previously applied for benefits) which is filed on or after the date this agreement enters into force.

2. In the application of the present agreement, the periods of coverage completed prior to its entry into force shall be taken into consideration except that neither Contracting State shall take into account periods of coverage occurring prior to the effective date of its laws.

3. If previous claims were satisfied through a lump-sum payment because of insufficient periods of coverage and if, with the application of the provisions of this agreement, the beneficiary meets the conditions required for receiving a pension, he may request a review of action taken on his case.

4. This agreement shall not result in the payment of benefits for periods prior to the date of its entry into force.

ARTICLE 24

1. This agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2. This agreement shall enter into force on the first day of the month following the month in which the instruments of ratification are exchanged.

3. a. This agreement may be amended from time to time by supplementary agreements which shall take effect on the first day of the month following the month in which the instruments of ratification of such supplementary agreements are exchanged; provided, however, that nothing in this paragraph shall be construed to prevent such supplementary agreements from being given retroactive effect if they so specify.

b. Any supplementary agreement which takes effect under the terms of this paragraph shall be deemed thereafter for purposes of this article to be an integral part of this agreement.

c. A meeting for the consideration of a supplementary agreement shall be called at the request of the competent authorities of either State.

4. This agreement shall remain in force and effect until the expiration of 1 calendar year following the year in which written notice of its renunciation is delivered to the competent authorities of one Contracting State by the competent authorities of the other State.

5. If this agreement is renounced, rights acquired shall be retained under the provisions of this agreement and rights in the process of being acquired shall be recognized in conformity with supplementary agreements.

Done in Washington on this twenty-third day of May, 1973, in duplicate, in English and Italian, the two texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

CASPAR W. WEINBERGER.

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC:

DIONIGI COPPO.

ADMINISTRATIVE PROTOCOL FOR THE IMPLEMENTATION OF THE
 AGREEMENT ON SOCIAL SECURITY BETWEEN THE UNITED STATES
 OF AMERICA AND THE ITALIAN REPUBLIC, SIGNED AT WASHINGTON,
 D.C. ON MAY 23, 1973

PART I. GENERAL PROVISIONS

ARTICLE I—DEFINITIONS

For the purposes of the application of the Agreement and this Protocol:

1. The term "Agreement" means the Agreement between the United States of America and the Italian Republic on the matter of Social Security signed at Washington, D.C., on May 23, 1973;
2. The term "claimant" means a worker, family member, or survivor who has filed an application for benefits under the laws of either State or of both States;
3. The term "provisional benefits" means any benefit to which a claimant may be entitled before a final determination as to the claimant's rights has been made;
4. The terms defined in Article 1 of the Agreement shall have the meaning given to them by the said Article.

ARTICLE 2.—AGENCIES RESPONSIBLE FOR IMPLEMENTATION

1. The agencies responsible for applying this Protocol are:
 - (a) For the United States of America: The Social Security Administration;
 - (b) For the Italian Republic:
 - I.N.P.S. (Istituto Nazionale della Previdenza Sociale), General Directorate, Rome, for matters concerning disability, old-age and survivors insurance of employees, farmers, agricultural workers and sharecroppers, artisans, and businessmen;
 - E.N.P.A.L.S. (Ente Nazionale di Previdenza e Assistenza per i Lavoratori dello Spettacolo), General Directorate, Rome, concerning disability, old-age and survivors insurance for workers in the entertainment business;
 - I.N.P.D.A.I. (Istituto Nazionale di Previdenza per i Dirigenti di Aziende Industriali), General Directorate, Rome, concerning disability, old-age and survivors insurance for managerial personnel in industry;
 - I.N.P.G.I. (Istituto Nazionale di Previdenza per i Giornalisti Italiani), General Directorate, Rome, concerning disability, old-age and survivors insurance for professional journalists.
2. The coordinating agencies designated under Article 14.1 of the Agreement to facilitate its application are:
 - (a) For the United States of America: The Social Security Administration;
 - (b) For the Italian Republic: The Istituto Nazionale della Previdenza Sociale General Directorate, Rome.
3. In carrying out their responsibilities under Article 14.1 of the Agreement, the Coordinating Agencies designated in paragraph 2 of this article shall be responsible for the development of uniform policies

and procedures and their uniform implementation by the Agencies in their respective States; for providing a channel of communication between the Agencies of one State and the Agencies of the other State; for determining which Agency is competent for the determination of a particular claim; and for facilitating the resolution of any issues that arise between the Agencies of the two States that cannot be resolved directly.

PART II. PROVISIONS RELATING TO APPLICABLE LAWS

ARTICLE 3—COVERAGE AND EXEMPTIONS

1. The Agency of the State under whose laws the services of a worker will remain covered in accordance with paragraphs 2, 3, or 4 of article 7 of the agreement shall issue to the worker, his employer, or the Agency of the other State, a certificate to that effect when requested to do so by the worker, his employer, or the Agency of the other State.

2. An exemption from the laws of one of the States, as provided for in article 7.4 of the agreement, shall apply to the period of work for which the certificate referred to in paragraph 1 of this article was issued.

3. An election provided for in Article 7.4b of the Agreement or in this paragraph shall be exercised within 3 months following the month in which a period of work for any employer begins or the right to amend the election arises. The election shall be binding with respect to that period of work. In the case of an Italian national who is not a national of both States, any such election may be amended during the second year after the beginning of the period of work and the election as amended shall be applicable from the date it is made for future periods of work where Article 7.4b of the Agreement applies; except that such an Italian national shall be afforded the opportunity to further amend his election if he subsequently acquires or loses the status of permanent resident of the United States.

4. The obligation for payment of contributions and taxes in respect of old-age, survivors, and disability insurance of the United States of America shall be subject to the provisions of Chapter 2 and Chapter 21 of the Internal Revenue Code of 1954, as amended.

PART III. APPLICATION OF PARTICULAR PROVISIONS OF THE AGREEMENT REGARDING DISABILITY, OLD-AGE, AND SURVIVORS INSURANCE

ARTICLE 4. FILING AND PROCESSING CLAIMS

1. Claimants may avail themselves of their right to benefits under Articles 8 to 12 of the Agreement by filing an application with an Agency of either State, according to the rules of that Agency. Such application must specifically express intent to claim benefits from the Agency of the other State. An application with a Consulate of the United States of America located in the Italian Republic shall be deemed to be filed with the Agency of the United States of America; however, the Consulate of the United States of America with which the application was filed shall transmit, without delay, a copy thereof to the Italian Agency.

2. The date an application referred to in paragraph 1 is filed with the Agency of one State shall be recognized as the date of filing by the Agencies of both States; however, the claimant may request that an application be effective to a different date in the other State, within the limitations of and in conformity with the laws of the other State.

3. The Agency with which a claim was first filed shall transmit without delay to the Agency of the other State applications and other forms agreed upon by the Competent Authorities of the two States. Such forms shall contain all available information considered necessary to credit periods of coverage completed in both States, and such other information for determining a claimant's entitlement to benefits and the amount of benefits, including earnings amounts needed for its own calculations by the U.S. Coordinating Agency. Earnings amounts provided by the Italian Agency for years in which coverage is reported in terms of contributions and not in terms of earnings may be amounts derived by converting contributions made by workers into earnings amounts, using conversion tables agreed upon by the Competent Authorities of both States. In the case of an application for a disability benefit or, when necessary for a survivor's benefit, the relevant medical documentation which the Agency has in its possession shall be enclosed with the application form. The data on applications and forms shall be duly authenticated by the Agency that transmits the forms, and data on the authenticated forms shall be accepted as valid as the data on the original documents from which the data were extracted.

4. The Agency of a State which receives an application filed in the other States shall transmit without delay to the Agency of the other State the earnings information and other information referred to in the preceding paragraph.

5. The Agency of each State after determining the benefit amount due a claimant under the Agreement shall promptly advise the Agency of the other State of the benefit amount.

6. Each Agency shall be the final judge of the quality or probative value of documentary evidence presented to it from whatever source.

7. The limitations and restrictions mentioned in Article 6 of the Agreement refer only to limitations and restrictions on payment of benefits based solely on the physical presence or residence of the beneficiary.

ARTICLE 5. TOTALIZATION AND PRO RATA CALCULATIONS

1. For the purpose of taking into consideration the periods of coverage as provided in Article 8 and for the purpose of computing benefits under Article 9.2 of the Agreement, the following rules apply (subject to the conditions established in Article 8.4 of the Agreement and the proviso in Article 2.1b of the Agreement):

(a) The periods of coverage completed under the laws of one State shall be added to the periods of coverage completed under the laws of the other State, even if these periods have already given rise to the payment of a benefit from the first State;

(b) When a period of coverage under compulsory insurance completed under the laws of one State coincides with a period of coverage under compulsory insurance completed under the laws of the other State, the Agency of each State shall consider

for purposes of determining the right to benefits and the benefit amount only those periods that were completed under its laws;

(c) If a period of coverage under compulsory insurance completed under the laws of one State coincides with a period of coverage based on voluntary insurance under the laws of the other State, only the period of coverage under compulsory insurance shall be considered.

2. For purposes of calculating a benefit payable by an Agency of the Italian Republic in accordance with Article 9.2 of the Agreement, if a period of coverage under voluntary insurance completed under Italian law coincides with a period of coverage under compulsory insurance completed under United States law, only the latter period shall be considered. In such cases, the period of voluntary coverage shall be considered by the above-mentioned Agency according to the provisions of Italian law.

3. For the purposes of calculating a benefit payable by the United States of America, the pro rata basic benefit amount may be rounded to the nearest primary insurance amount appearing in Column IV of the table of benefits contained in section 215(a) of the Social Security Act (or deemed to be contained in such section) or to a primary insurance amount as set forth in an extension of that column from the minimum primary insurance amount down to the amount of \$1.00 in increments to be determined by the competent Authority of the United States of America.

4. Where a worker's periods of coverage are less than the minimum period required by Article 8.4 of the Agreement under the laws of one State, those periods of coverage will nevertheless be considered by the Agency of the other State as if they were periods of coverage under its own laws in order to both establish the right to benefits under Article 8.2 of the Agreement and the amount of the benefit under Article 9.2 of the Agreement, provided that:

(a) The worker has the minimum period required by Article 8.4 of the Agreement under the laws of the other State; and

(b) The individual claiming benefits based on the periods of coverage of the worker is not eligible for a benefit based on those periods of coverage under the laws of the other State without recourse to totalization under Article 8.2 of the Agreement.

5. When a claimant is entitled to a benefit under the provisions of paragraph 1 of Article 9 of the Agreement which would result in a higher benefit amount than would result from the claimant's entitlement under the provisions of paragraph 2 of Article 9, the Agency shall award benefits in accordance with paragraph 1. The notice of award shall also advise the claimant that he has the right to elect to receive benefit payments as provided for in either paragraph 3 or paragraph 4 of Article 9, within 3 months from the date of the award.

ARTICLE 6. RECOVERY OF OVERPAYMENTS

1. Whenever the Agency of one State has paid provisional benefits under paragraphs 1 and 2 of Article 21 of the Agreement to an individual in excess of the amount to which the individual is entitled under terms of the Agreement, the Agency may, within the conditions and limits prescribed by its laws, request the Agency of the other State to deduct the amount of the overpayment from the benefits

which may later be payable by the other Agency to that individual, within the limits and conditions prescribed by the law under which it operates.

2. When Agencies of both States have overpaid benefits to the same individual, an Agency may give precedence to recovery of the overpayment under its laws.

3. The Competent Authorities of both States shall establish by common agreement procedures for processing amounts of overpaid provisional benefits recovered by each State on the account of the other during the calendar year.

ARTICLE 7. MEDICAL EXAMINATIONS FOR DISABILITY

1. In making a determination of the degree of disability of a claimant or of a beneficiary for a benefit based on a disability, the Agency of each State shall take into account any medical findings provided by the Agency of the other State. This shall be without prejudice to the right of the Agency of each State to have the claimant examined by a qualified physician.

2. The Agency of one State shall make available to the Agency of the other State, at its request, any medical information and documentation concerning the claimant which may be in its possession.

3. Where the Agency of either State requires that the claimant submit to a medical examination, such examination shall if requested be arranged by the Agency of the State in which the claimant resides at the expense of the Agency which requests the examination. Where such a medical examination has been secured for its own purposes by an Agency which receives such a request, it shall furnish a report of the examination without expense to the other Agency.

ARTICLE 8. RECOMPUTATION OF BENEFITS

1. A beneficiary may file an application with the Agency of either State for a recomputation of the benefit amount in accordance with Article 11.1 of the Agreement, to take into account additional periods of coverage completed under the laws of either State. An application for recomputation may be filed within the time limits provided by the laws of the State under which it is filed but in any case not more frequently than once per year. All such applications must be in written form and signed by the beneficiary involved. The Agency of the United States of America shall recompute benefits only if the additional earnings would increase the average monthly earnings on which the current benefit was computed. The Agency making the recomputation shall send the Agency of the other State information concerning the additional earnings or periods of coverage and concerning the amounts of the current and recomputed benefits. If the total amount of the benefits payable by both States after recomputation is less than the total payable without recomputation, the recomputation shall be disregarded.

2. (a) The Agency of each State shall upon request send the other State information concerning additional earnings or periods of coverage credited under its laws to claimants who have been awarded benefits in accordance with Article 8.2 of the Agreement.

(b) When an individual is entitled to a benefit from a State under Article 8.2 of the Agreement and subsequently meets the prerequisites for the receipt of a higher benefit from the same State under Article 9.1 of the Agreement, the higher benefit shall be paid automatically or upon request. In any case, the benefit shall be paid from the date that the prerequisites are met.

PART IV. MISCELLANEOUS AND FINAL PROVISIONS

ARTICLE 9. EXCHANGE OF INFORMATION

1. The Competent Authorities of the two States shall develop operating procedures and forms for the implementation of the Agreement and shall establish by common agreement procedures for the expeditious processing of claims filed under the Agreement.

2. The Competent Authorities of the two States shall meet to establish procedures for the implementation of Article 12 of the Agreement.

3. At the specific request of the Agency of one State, the Agency of the other State shall furnish information or copies of documents available to it relating to any specified claimant.

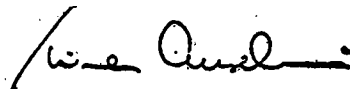
ARTICLE 10. APPEALS

1. An appeal from a decision of the Agency of one State may be filed with the Agency of either State for the purpose of protecting the filing date.

2. The Agency with which an appeal is filed shall notify the Agency of the other State if it is determined to be an appeal from a decision of the other State. The State whose decision is being appealed shall follow its normal appellate process on an appeal, and shall notify the other State of its decision.

FOR THE UNITED STATES OF
AMERICA

FOR THE ITALIAN REPUBLIC



ARTICLE 11. CONFIDENTIALITY OF EXCHANGED INFORMATION

1. The use of information furnished by one State to another with regard to an individual shall be governed by this Article.

2. Any information transmitted by one State to the other State about an individual shall be treated as confidential by the other State and its officials receiving such information, including the officials

mentioned in Article 15 of the Agreement, and shall be used exclusively for purposes of the implementation of the provisions contained in the Agreement and this Protocol or for the purpose of administering other benefit programs under the legislation of the other State.

3. The term "information" includes, but is not limited to, application forms, documentary evidence, medical evidence, certificates of election, any other papers furnished by an individual, notices to an individual, and all records, in whatever form, furnished by one State to the other which contains information concerning an individual, his earnings, the names of his employers, his present or past whereabouts, or his medical condition.

4. Use of information which does not pertain to or which does not identify a specific individual, such as in the case of statistical or research reports, shall be governed by the legislation or regulations of the respective States.

5. The right of an individual to inspection of records containing information pertaining to him shall be governed by the legislation or regulations of the State where the record is maintained.

ARTICLE 12. ENTRY INTO FORCE

This Administrative Protocol shall enter into force on the date the Agreement enters into force and shall be coterminous with that Agreement.

Done in Rome, November 22, 1977, in duplicate originals in the English and Italian languages each equally valid.

PROCES VERBALE

Of the meetings between the delegations of the United States of America and of the Italian Republic from October 17 through 21, 1977 for the completion of the Administrative Protocol for the application of the United States-Italy Agreement on Social Security of May 23, 1973.

Delegations of the United States and Italy met in Rome from October 17 to 21, 1977 to complete the draft of an Administrative Protocol to the Agreement on Social Security between the United States of America and the Italian Republic of May 23, 1973.

The names of the participants in the discussions are listed in the attached Annex A.

As a basis for their discussions, the delegations followed the text of a preliminary draft worked out during their last meeting in October, 1974, and considered a number of amendments to that draft subsequently proposed by both delegations. After a thorough examination of all of the proposed amendments, the two delegations agreed on the final draft texts which are attached as Annexes B and C in their respective official languages.

As regards the text of the Administrative Protocol, the two delegations wish to make the following clarifications:

1. With reference to the question of voluntary social insurance coverage in Italy, which is an integral part of its social insurance pension system but is presently excluded from consideration under the principal Agreement, the parties are agreed that they will

endeavour to seek a satisfactory resolution of the question as soon as possible but without prejudice to the prompt implementation of the principal Agreement and the Administrative Protocol.

2. The parties are also agreed that since, under the terms of Article 9.2 of the Administrative Protocol, it is necessary to establish special procedures for the implementation of Article 12 of the principal Agreement, the implementation of the said Article 12 will be undertaken after the formulation of the said procedures.

3. As regards the recognition of the qualification as an Italian employer for the purposes of Article 7 of the Agreement, the two delegations have agreed that it is the responsibility of the employer in the United States to establish that he is an Italian employer.

4. Under Article 2.3 of the Administrative Protocol, it is understood that the coordinating Agency of Italy in the first phase of the implementation of the Agreement will be responsible for determining which of the regional offices of I.N.P.S. has jurisdiction over new claims filed initially with the United States and for directing those claims to the appropriate office. Once the appropriate regional office has communicated with the United States Agency, with respect to a claim, subsequent communications concerning that claim shall be made directly between those Agencies. Any question regarding regional office jurisdiction and any other questions which cannot be resolved satisfactorily by the respective Agencies will be resolved by the Coordinating Agencies. It is agreed by both parties that if these arrangements, and procedures adopted to implement them, prove to be unsatisfactory, the Coordinating Agencies at the request of either party, shall consider revisions of the arrangements and procedures within the terms of the principal Agreement.

The two delegations are agreed that, as soon as an independent comparison of the respective language texts has been completed to assure that they are parallel, they will recommend to their Governments that the Administrative Protocol be signed as soon as possible.
Rome, October 21, 1977.

FOR THE ITALIAN DELEGATION

FOR THE UNITED STATES
DELEGATION

Enrico Amalfi
Gabriella Dinone
~~Salvatore Santoro~~
Vittorio Veselini
Corrado Santoro
Dan Brown

William M. Yaffe
Juan J. Rice
Richard J. Jacobs

ANNEX A. UNITED STATES-ITALY DISCUSSIONS ON THE CONCLUSION
OF AN ADMINISTRATIVE PROTOCOL ON SOCIAL SECURITY

UNITED STATES DELEGATION

Mr. William M. Yoffe (Head of Delegation), International Liaison
Officer, Social Security Administration.
Mr. Irving Jacobs, Chief, Coverage Planning Branch, OPEP, SSA.
Mr. Jack Rice, Division of International Operations SSA.
Avv. Mario Gallotti, U.S. Embassy Rome (Legal Consultant).

DELEGAZIONE ITALIANA

Ministro Sergio Angeletti (Head of Delegation), Vice Direttore
Generale della Emigrazione e A.S.
Dott. Vittorio Tedeschi, Consigliere di Legazione.
Dott. Corrado Gianturco, Segretario di Legazione-D.G.E.A.S. Uff.3°.
Dott. Giuseppe Cinti, Segretario di Legazione Ufficio Trattati.
Dott.ssa Gabriella Pirrone, Primo Dirigente, Ministero Lavoro e
Previdenza Soc.
Dott.ssa Franca Selvaggi, Direttore Capo Aggiunto del Ministero
Lavoro e Previdenza Soc.
Dott. Salvatore Randisi, Dirigente Superiore Istituto Nazionale
Previdenza Soc.
Dott. Dario Bosso, Istituto Nazionale Previdenza Soc.

[No. 33]

ROME, January 16, 1978.

His Excellency ARNALDO FORLANI,
Minister for Foreign Affairs.

EXCELLENCY: I have the honor to refer to the Agreement between the United States of America and the Italian Republic on the matter of social security signed in Washington on May 23, 1973, to the Administrative Protocol for the implementation of the 1973 Agreement signed in Rome on November 22, 1977, and to Article 2 Paragraph 3 of the 1973 agreement.

The social security amendments of 1977 (Public Law 95-216) which became law on December 20, 1977, have inter alia, altered the method of computing benefits under the Social Security Act after December 31, 1978. As a result of this change, which in general eliminates the use of a benefit table for computing benefits after December 31, 1978, the definition of "basic benefit amount" which is applicable to the United States now contained in Article 1 K of the 1973 agreement will be obsolete after that date. Since the continued reference to that definition would make the 1973 agreement, as a practical matter, inoperable under United States law after December 31, 1978, and since that would be contrary to the purposes of the agreement and to the intent of the contracting parties, the United States proposes to use the following language as the definition for purposes of implementing the 1973 agreement after December 31, 1978. If this definition is acceptable to the Government of the Italian Republic, the Congress of the United States will be so informed during the process of review

leading to the approval of the 1973 agreement and the 1977 Administrative Protocol and their subsequent implementation.

It is therefore proposed that, beginning on January 1, 1979, that portion of Article 1 K of the 1973 agreement which defines "basic benefit amount" with respect to the United States of America shall be interpreted to mean:

and as regards the United States of America, "primary insurance amount" based on a worker's average monthly earnings or average indexed monthly earnings, as provided in section 215 (a) of the Social Security Act as amended by the Social Security amendments of 1977;

Except with respect to this interpretation, all terms and conditions of the 1973 Agreement and the 1977 Administrative Protocol remain the same. I propose that, as to the interpretation of Article 1 K of the 1973 Agreement, this note and your reply concurring therein constitute an agreement between our two Governments effective on the date of your Note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

RICHARD GARDNER.

ROMA, *gennaio 20, 1978.*

S.E. l'Ambasciatore RICHARD GARDNER,
Ambasciata Degli Stati Uniti d'America

SIGNOR AMBASCIATORE: Ho l'onore di riferirmi alla Sua lettera n. 33 del 16 gennaio 1978, del seguente tenore:

EXCELLENCY: I have the honor to refer to the Agreement between the United States of America and the Italian Republic on the matter of social security signed in Washington on May 23, 1973, to the Administrative Protocol for the implementation of the 1973 Agreement signed in Rome on November 22, 1977, and to Article 2, Paragraph 3, of the 1973 Agreement.

The social security amendments of 1977 (Public Law 95-216) which became law on December 20, 1977, have, inter alia, altered the method of computing benefits under the Social Security Act after December 31, 1978. As a result of this change, which in general eliminates the use of a benefit table for computing benefits after December 31, 1978, the definition of "basic benefit amount" which is applicable to the United States now contained in Article 1.K of the 1973 agreement will be obsolete after that date. Since the continued reference to that definition would make the 1973 agreement, as a practical matter, inoperable under United States law after December 31, 1978, and since that would be contrary to the purposes of the agreement and to the intent of the contracting parties, the United States proposes to use the following language as the definition for purposes of implementing the 1973 agreement after December 31, 1978. If this definition is acceptable to the Government of the Italian Republic, the Congress of the United States will be

so informed during the process of review leading to the approval of the 1973 agreement and the 1977 Administrative Protocol and their subsequent implementation.

It is therefore proposed that, beginning on January 1, 1979, that portion of Article 1.K of the 1973 agreement which defines "basic benefit amount" with respect to the United States of America shall be interpreted to mean:

"* * * and as regards the United States of America, 'primary insurance amount' based on a worker's average monthly earnings or average indexed monthly earnings, as provided in section 215 (a) of the Social Security Act as amended by the Social Security amendments of 1977;"

Except with respect to this interpretation, all terms and conditions of the 1973 Agreement and the 1977 Administrative Protocol remain the same. I propose that, as to the interpretation of Article 1.K of the 1973 Agreement, this note and your reply concurring therein constitute an agreement between our two Governments effective on the date of your Note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Al riguardo ho l'onore di comunicarle che il mio Governo concorda circa la proposta contenuta nella lettera medesima, concernente l'interpretazione dell'articolo 1.K dell'Accordo fra gli Stati Uniti d'America e la Repubblica Italiana in materia di sicurezza sociale firmato a Washington il 23 maggio 1973.

Voglia accettare, signor Ambasciatore, i rinnovati sensi della mia piu alta considerazione.

A. FORLANI.

REPORT TO CONGRESS TO ACCOMPANY THE SOCIAL SECURITY AGREEMENT BETWEEN THE UNITED STATES AND ITALY AND AN ADMINISTRATIVE PROTOCOL TO THE AGREEMENT

BACKGROUND

The social security totalization agreement between the United States and Italy was signed by former Secretary of Health, Education, and Welfare Caspar W. Weinberger and the Italian Minister of Labor on May 23, 1973. The agreement was negotiated in fulfillment of a commitment to develop such an arrangement contained in the 1951 Supplementary Agreement to the U.S.-Italy Treaty of Friendship, Commerce, and Navigation of 1948 (Annex A). In consenting to ratification of the Supplementary Agreement, the Senate incorporated a reservation (Annex B) to the effect that the entry into force of any such arrangement would require authority in U.S. statute. Such authority is now provided by section 233 of the Social Security Act as amended by Public Law 95-216. Italy enacted a law authorizing approval of the agreement in 1975 (published in the *Gazzetta Ufficiale della Repubblica Italiana*—No. 92—April 7, 1975).

The administrative protocol to the 1973 agreement was signed by Secretary Califano and the Italian Minister of Labor on November 22, 1977. The protocol clarifies some of the provisions of the principal agreement and lays down basic operating procedures for its implementation.

A recent exchange of diplomatic notes between the U.S. and Italian Governments revises the definition of "basic benefit amount" as it applies to the United States in the agreements to take account of changes in the U.S. method of benefit computations which were enacted as part of the Social Security Amendments of 1977. This term is used in the agreement and protocol to facilitate implementation of the provisions dealing with benefit computations.

Accompanying this report and forming an integral part of it are paragraph-by-paragraph analyses of the principal agreement (Annex C) and administrative protocol (Annex D), as well as the report (Annex E) required by section 233(e)(1) of the Social Security Act on the effect of the agreements on income and expenditures of social security programs and the number of individuals affected by the agreements.

MAIN PROVISIONS OF THE AGREEMENT AND PROTOCOL

Required provisions

Section 233(c)(1) of the Social Security Act requires that totalization agreements concluded pursuant to that section provide for the elimination of dual coverage of the same work under the social security systems of the United States and the other country party to the agreement, and for the totalization of credits earned by a worker under the two systems for benefit eligibility purposes. In addition, the law requires that when social security benefit eligibility is established on the basis of totalized credits the amount of the benefit payable under title II be prorated based on the proportion of the worker's periods of coverage completed under that title to the combined total in both countries. The agreement and protocol include these required provisions.

Under article 7 of the principal agreement dual coverage would be eliminated generally by maintaining under U.S. coverage and excluding from Italian coverage those U.S. citizens working in Italy who would otherwise be dually covered, and by maintaining under Italian coverage and excluding from U.S. coverage nationals of Italy employed in the United States by an Italian employer who choose not to be covered under the U.S. system. Under article 3 of the protocol this choice would have to be exercised within 3 months of the beginning of a period of work and generally could be amended only during the second year after the period of work began. Those U.S. citizens who primarily would be affected by these provisions are the American workers employed by an American employer in Italy (and some self-employed Americans in Italy) who are now covered under both the U.S. and Italian social security systems.

In conformity with section 233(c)(1) of the Social Security Act, the agreements also would prevent gaps in the protection of workers with work histories divided between the two countries by permitting their credits to be combined (or totalized) in order to meet the insured status requirements of either or both countries. A worker would need a minimum period of coverage under the system of a country before that system would consider periods of coverage from the other country. Under the agreement the minimum would be 6 quarters of coverage (as stipulated in section 233(c)(1)(A) of the Social Security Act) in the case of the United States and 1 year of coverage in the case of Italy.

The benefits of persons who qualify based on totalized credits would be in amounts that are in proportion to the amount of coverage completed in the paying country to the amount of combined coverage from both countries. For example, a worker who retired with 5 years of credit under the U.S. system and 10 years under the Italian system (and who therefore under the present situation would qualify for benefits under neither system) could have his credits combined under each country's system to meet its eligibility requirements. The U.S. and Italian benefits would equal approximately one-third and two-thirds respectively of the benefit that would be payable if all work had been covered under the system paying the benefits.

The manner in which the United States takes account of Italian periods of coverage and covered earnings in those periods to determine insured status and compute prorata benefits will be published in regulations and will depend to some extent on the precise information available in Italian records. If sufficient information is available from the Italian system, we intend to apply the general \$50 quarter of coverage measure which applied under U.S. law to wages paid before 1978 and the quarter of coverage measures that apply under the annual wage reporting system to wages earned after 1977. Thus, for earnings before 1978, the United States would credit one quarter of coverage for every calendar quarter not already credited as a quarter of coverage in which a person had earnings certified by Italy equivalent to at least \$50 or combined U.S. and Italian earnings totaling at least \$50.

For earnings in 1978 and later (when the annual reporting system is in effect), the United States would consider Italian periods of coverage only when a person did not have sufficient earnings in a year under the U.S. system to be credited with 4 quarters of coverage for the year.

Where fewer than 4 quarters of coverage were credited, additional quarters of coverage could be established based on earnings amounts certified by Italy applying the earnings criteria in effect for that year (in 1978, \$250 annual earnings for a quarter of coverage). In any year where Italian earnings were to be considered, quarters of coverage based on U.S. earnings would be assigned to calendar quarters so as to permit crediting of the calendar quarter(s) of highest Italian earnings. This approach is consistent with the provisions of the Social Security Act which provide for assigning quarters of coverage under the annual wage reporting system in such a way as to be most advantageous to the worker.

Quarters of coverage which result only from combining U.S. and Italian earnings to meet either the \$50/quarter test with respect to pre-1978 earnings or the annual test with respect to post-1977 earnings would be considered Italian periods of coverage for purposes of computing prorata benefit amounts.

Additional provisions

Section 233(c)(2) of the Social Security Act also permits agreements to provide for the payment of a supplement by the United States in cases where a U.S. resident is eligible for monthly prorata benefits from the United States and the other contracting party which together amount to less than the monthly benefit that would be payable by the United States based on the regular minimum primary insurance amount under the Social Security Act. The supplement in such cases would be equal to the difference between the benefit based on the regular minimum PIA and the total amount of the combined prorata benefits otherwise payable by both countries. Article 12 of the principal agreement provides for the payment of such a "guaranteed minimum benefit supplement" by the country in which an eligible beneficiary resides.

Implementation of this provision would require that the two countries agree to additional administrative procedures which will be settled upon in accordance with provisions of the administrative protocol. It is the understanding of both sides, as expressed in the protocol, that neither side will implement the guaranteed minimum benefit provision until the additional procedures are settled upon. However, once the provision is implemented any additional benefits payable under it would be paid retroactively from the effective date of an application under the principal agreement.

Section 233(c)(2) of the Social Security Act also permits agreements to contain provisions suspending the application of the alien nonpayment provisions of the Social Security Act for persons residing in a foreign country which is party to an agreement. The principal agreement in accordance with this section provides that benefits payable to a person by the United States or Italy under the agreement or the country's national law shall be payable while the person resides in the other country. The effect of this provision is limited because under the social security equal treatment provisions of the 1948 Treaty of Friendship, Commerce and Navigation, the United States and Italy already pay social security cash benefits outside their territory to citizens of the other country. Thus, the effect of the new provision is to permit the payment of benefits to third country nationals (in par-

particular those who are dependents and survivors of insured persons) residing in Italy or the United States, notwithstanding either country's alien nonpayment provisions.

ADMINISTRATIVE PROVISIONS

Section 233(c)(4) of the Social Security Act authorizes agreements to contain other provisions not inconsistent with title II of the Act which are appropriate to carry out the purposes of the agreements. In accordance with this provision the agreement and protocol contain a number of articles designed to permit the United States or Italy to render free assistance to the other country in implementing the agreement.

The agreement and protocol contain provisions typically included in totalization agreements under which certain benefit overpayments made by one country in implementing the agreements may be recovered by the other country from benefits it pays. However, the protocol provides that the overpayment recovery provisions will be implemented only within the limits of each country's law. No recoveries will be made under this provision until it has been determined to what extent such recoveries are permitted under U.S. law.

The protocol provides strict limitations on the use that either country may make of information received from the other country under the agreements. This information would include primarily the data on workers' covered earnings and periods of coverage that is necessary to determine benefit rights under the agreement. The information must be treated as confidential by the agencies of both countries which receive the information, and by their officials and employees. Thus, any information pertaining to an individual which an Italian social security agency received from the Social Security Administration in the course of implementing the agreements could be used only to administer the agreements or disclosed to the individual to whom the information pertains. Disclosure to the individual by either country would be governed by that country's national law, which in the case of the United States would include the Privacy Act, Freedom of Information Act, and other pertinent provisions of U.S. law.

[Treaties and Other International Acts—Series 4685]

FRIENDSHIP, COMMERCE AND NAVIGATION

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND ITALY SUPPLEMENTING THE TREATY OF FEBRUARY 2, 1948

(Signed at Washington, September 26, 1951)

ITALY

FRIENDSHIP, COMMERCE AND NAVIGATION

Agreement supplementing the treaty of February 2, 1948.
Signed at Washington September 26, 1951;
Ratification advised by the Senate of the United States of America,
with an understanding, July 21, 1953;
Ratified by the President of the United States of America with said
understanding, September 22, 1960;

Ratified by Italy October 28, 1960;
Instruments of ratification exchanged at Washington March 2, 1961;
Proclaimed by the President of the United States of America
March 8, 1961;
Entered into force March 2, 1961.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS an agreement supplementing the treaty of friendship, commerce and navigation between the United States of America and the Italian Republic was signed at Washington on September 26, 1951, the original of which agreement, in the English and Italian languages, is word for word as follows:

* * * with such provisions for the transfers referred to in Article III, paragraph 2(b), as may be feasible, giving consideration to special needs for other transactions, and shall afford the other High Contracting Party adequate opportunity for consultation at any time regarding such provisions and other matters affecting such transfers. Such provisions shall be reviewed in consultation with such other High Contracting Party at intervals of not more than twelve months.

2. The provisions of the present Article, rather than those of Article XXIV, paragraph 1(f), of the said Treaty, shall govern as to the matters treated in the present Agreement.

Article V

In addition, and without prejudice to the other provisions of the present Agreement or of the said Treaty, there shall be applied to the investments made in Italy the regulations covering the special advantages set forth in the fields of taxation, customs and transportation rates, for the industrialization of Southern Italy under Law No. 1598 of December 14, 1948, and for the development of the Apuanian industrial area and the industrial areas of Verona, Gorizia, Trieste; Leghorn, Marghera, Bolzano and other areas covered by the Italian legislation now existing or which may in the future be adopted.

Article VI

The clauses of contracts entered into between nationals, corporations and associations of either High Contracting Party, and nationals, corporations and associations of the other High Contracting Party, that provide for the settlement by arbitration of controversies, shall not be deemed unenforceable within the territories of the other High Contracting Party merely on the grounds that the place designated for the arbitration proceedings is outside such territories, or that the nationality of one or more of the arbitrators is not that of such other High Contracting Party.

No award duly rendered pursuant to any such contractual clause, which is final and enforceable under the laws of the place where rendered, shall be deemed invalid or denied effective means of enforcement within the territories of either High Contracting Party merely on the grounds that the place where such award was rendered is outside such territories or that the nationality of one or more of the arbitrators is not that of such High Contracting Party. It is understood that nothing herein shall be construed to entitle an award to be executed within the territories of either High Contracting Party until after it has been duly declared enforceable therein.

Article VII

1. The two High Contracting Parties, in order to prevent gaps in the social insurance protection of their respective nationals who at different times accumulate substantial periods of coverage under the principal old-age and survivors insurance system of one High Contracting Party and also under the corresponding system of the other High Contracting Party, declare their adherence to a policy of permitting all such periods to be taken into account under either such system in determining the rights of such nationals and of their families. The High Contracting Parties will make the necessary arrangements^[1] to carry out this policy in accordance with the following principles:

(a) Such periods of coverage shall be combined only to the extent that they do not overlap or duplicate each other, and only insofar as both systems provide comparable types of benefits.

(b) In cases where an individual's periods of coverage are combined, the amount of benefits, if any, payable to him by either High Contracting Party shall be determined in such a manner as to represent, so far as practicable and equitable, that proportion of the individual's combined coverage which was accumulated under the system of that High Contracting Party.

(c) An individual may elect to have his right to benefits, and the amount thereof, determined without regard to the provisions of the present paragraph.

Such arrangements may provide for the extension of the present paragraph to one or more special old-age and survivors insurance systems of either High Contracting Party, or to permanent or extended disability insurance systems of either High Contracting Party.

2. At such time as the Maintenance of Migrants' Pension Rights Convention of 1935 enters into force with respect to both High Contracting Parties, the provisions of that Convention shall supersede, to the extent that they are inconsistent therewith, paragraph 1 of the present Article and arrangements made thereunder.

¹ For understanding of the two Governments concerning arrangements under Article VII, paragraph 1, see *post*, p. 10.

Article VIII

Each High Contracting Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such questions as the other High Contracting Party may raise with respect to any matter affecting the operation of the present Agreement or of the said Treaty.

Article IX

The present Agreement shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible. It shall enter into force on the day of exchange of ratifications, and shall thereupon constitute an integral part of the said Treaty of Friendship, Commerce and Navigation.

[Treaties and Other International Acts—Series 4685]

FRIENDSHIP, COMMERCE AND NAVIGATION

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND ITALY SUPPLEMENTING THE TREATY OF FEBRUARY 2, 1948

(Signed at Washington, September 26, 1951)

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Agreement and have affixed hereunto their seals.

DONE in duplicate, in the English and Italian languages, both equally authentic, at Washington, this twenty-sixth day of September, one thousand nine hundred fifty-one.

For the United States of America: Per gli Stati Uniti d'America:
DEAN ACHESON. [SEAL]

For the Italian Republic: Per la Repubblica Italiana:
GIUSEPPE PELLA. [SEAL]

WHEREAS the Senate of the United States of America by their resolution of July 21, 1953, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said agreement "subject to the understanding that the arrangements referred to in Article VII, paragraph 1, of the said agreement shall be made by the United States only in conformity with provisions of statute";

WHEREAS the text of the said understanding was communicated by the Government of the United States of America to the Government of the Italian Republic by a note dated July 24, 1953 and was accepted by the Government of the Italian Republic on a reciprocal basis;

WHEREAS the said agreement was ratified by the President of the United States of America on September 22, 1960, in pursuance of the aforesaid advice and consent of the Senate and subject to the said understanding, and was ratified on the part of the Italian Republic;

WHEREAS the respective instruments of ratification as aforesaid, were exchanged at Washington on March 2, 1961, and a protocol of

exchange, in the English and Italian languages, was signed at that place and on that date by the respective Plenipotentiaries of the United States of America and the Italian Republic, the said protocol of exchange declaring that "it is understood that the entry into force of the arrangements mentioned in Article VII, paragraph 1, of the said agreement is subordinate in any case to the fulfilling on the part of the United States of America of its provisions of statute and on the part of the Italian Republic of its constitutional requirements";

AND WHEREAS it is provided in Article IX of the said agreement that the agreement shall enter into force on the day of exchange of ratifications;

NOW, THEREFORE, be it known that I, John F. Kennedy, President of the United States of America, do hereby proclaim and make public the said agreement to the end that the same and every article and clause thereof may be observed and fulfilled in good faith on and after March 2, 1961, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof, subject to the said understanding.

IN TESTIMONY WHEREOF, I have caused the Seal of the United States of America to be hereunto affixed.

DONE at the city of Washington this eighth day of March in the year of our Lord one thousand nine hundred sixty-one and of [SEAL] the independence of the United States of America the one hundred eighty-fifth.

JOHN F. KENNEDY.

By the President:
DEAN RUSK
Secretary of State.

SOCIAL SECURITY TOTALIZATION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE ITALIAN REPUBLIC

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE ITALIAN REPUBLIC ON THE MATTER OF SOCIAL SECURITY

ANNOTATIONS AND COMMENTS

The President of the United States of America and
The President of the Italian Republic

Desiring of regulating the relations between the two States in the field of social security, in accordance with the principles established under Article VII of the Agreement signed at Washington, D.C., September 26, 1951, supplementing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic signed at Rome, February 2, 1948, have agreed to conclude an Agreement for that purpose and have therefore appointed as their plenipotentiaries:

The President of the United States of America:

Caspar W. Weinberger, Secretary of Health,
Education, and Welfare, and

The President of the Italian Republic:

Dionigi Coppo, Minister of Labor and Social
Welfare,

who, having exchanged their full powers, found to be in good and due form, have agreed to the following provisions:

PART I. GENERAL PROVISIONS

ARTICLE 1

For purposes of the application of this Agreement:

a. The term "territory" shall mean, as regards the Ital-

This agreement is based on the principles established by article VII of the 1951 Supplementary Agreement to the Treaty of Friendship, Commerce, and Navigation of 1948 between the United States and Italy (TIAS 4685) and is in conformity with the provisions of statute (Section 233 of the Social Security Act) thus meeting the requirement that any such agreement be in accordance with legislation, as stipulated by the Senate in giving its advice and consent to the ratification of the 1951 Supplementary Agreement.

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Article 1 defines the key terms used in the agreement.
The U.S. definition of territory is identical to the defini-

SOCIAL SECURITY TOTALIZATION AGREEMENT

ian Republic, Italy; and as regards the United States of America, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

b. The term "national" shall mean, as regards the Italian Republic, an Italian national; and as regards the United States of America, "national of the United States" as defined in Section 101, Immigration and Nationality Act of 1952, as amended;

j. The terms "benefits" and "pensions" shall mean any cash benefits payable under the laws specified in Article 2 of this Agreement;

k. The term "basic benefit amount" ("importo della prestazione") shall mean, as regards the Italian Republic, the amount of the benefit which is payable; and as regards the United States of America, "primary insurance amount" as set forth in the table of benefits contained in section 215(a) of title II or deemed to be contained in such section of the Social Security Act of 1935, as amended, from which is derived by law the actual amount of the benefit which is payable;

ANNOTATIONS AND COMMENTS

tion of the U.S. in section 210(i) of the Social Security Act.

Under section 101 of the Immigration and Nationality Act of 1952, "the term national of the United States means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States." At present, the practical effect of paragraph (b) is that the term national includes natives of American Samoa and Swain's Island.

The definition of the terms "benefits" and "pensions" includes periodic cash benefits (generally monthly, except for a 13th monthly payment under the Italian scheme) payable under the social security laws plus lump-sum payments—in the case of the U.S., the lump-sum death payment.

The term "basic benefit amount" has been established to facilitate implementation of the provisions of Part III of the Agreement dealing with computation of pro rata benefits. Prior to January 1, 1979, the PIA will be computed from the table contained in or deemed to be contained in section 215(a) of the Social Security Act. In accordance with the Agreement embodied in diplomatic notes exchanged by the U.S. and Italian Governments, the PIA for persons who become eligible after December 31, 1978, generally will be computed in accordance with the benefit formula based on indexed earnings as prescribed in section 215(a) as amended by the Social Security Amend-

1. The term "beneficiary" shall mean any worker, family member, or survivor who is entitled to benefits or pensions.

ARTICLE 2

1. For purposes of this Agreement the applicable laws relating to social security for disability, old-age, and survivorship are:

a. in the case of the Italian Republic, the legislation on compulsory general insurance for old-age, disability, and survivors, as well as legislation providing benefits which are substitutes for benefits provided by said compulsory general insurance;

b. in the case of the United States of America, title II of the Social Security Act of 1935, as amended, and regulations promulgated under the authority provided therein, except sections 226 and 228 of such title and regulations pertaining to such sections;

provided, however, that for the United States the totalization of the periods of coverage in accordance with this Agreement shall not apply to periods of voluntary coverage provided for by such laws.

c. The term "laws", unless otherwise qualified, shall mean the laws, regulations, and any other measure con-

ments of 1977. The term "basic benefit amount" does not include the special minimum PIA provided for workers who have worked for long periods under the U.S. system at low wages.

The term "beneficiary" means any person entitled to benefits under the laws specified in Article 2.1.

Article 2 enumerates the laws to which the Agreement applies. The Italian laws are identified in general terms as those relating to social security old-age, disability, and survivor programs (including voluntary and optional insurance). However, the U.S. is required to take into account only voluntary or optional periods of coverage based on employment or self-employment. (For example, upon becoming temporarily unemployed, a worker in Italy may elect to pay contributions to maintain continuity of coverage.) The U.S. is not required to take into account any form of voluntary or optional insurance similar to the purchase of an annuity. The U.S. laws to which the Agreement applies are title II of the Social Security Act except section 226 (Medicare benefits) and section 228 (special age-72 payments—Prouty benefits). Hospital insurance under Medicare has been excluded. It is understood, though not specified, that persons to whom the Agreement applies who qualify independently for Medicare hospital insurance benefits would be entitled to receive such benefits.

The laws to which the agreement applies are defined in this paragraph in conjunction with Article 2. See com-

SOCIAL SECURITY TOTALIZATION AGREEMENT

cerning social security specified in Article 2 of this Agreement;

d. The term "competent authorities" shall mean the authorities responsible for the administration of the laws, and specifically: in the case of the Italian Republic: the Minister of Labor and Social Welfare (Ministro del Lavoro e della Previdenza Sociale); in the case of the United States of America: the Secretary of Health, Education, and Welfare (Ministro della Sanita, Educazione, e Previdenza Sociale);

e. The term "agency" shall mean for each Contracting State any agency, body, or authority entrusted with the administration of an insurance system, under the laws specified in Article 2 of this Agreement;

f. The term "periods of coverage" shall mean the periods of payment of contributions or periods of earnings based on wages for employment or self-employment income, as defined or recognized as periods of coverage by the law under which such periods have been completed, or any similar periods insofar as they are recognized by such laws as equivalent to periods of coverage;

g. The term "workers" shall mean persons who have periods of coverage;

ANNOTATIONS AND COMMENTS

ments on Article 2.1. See also Article 3.4 of the Administrative Protocol and accompanying comments.

"Competent authorities" as used throughout this Agreement, refers to the Government official who has the ultimate responsibility for administering its provisions.

Italy has one agency, the I.N.P.S., which administers its principal social security system, and a number of smaller agencies which administer the comparable systems for specialized groups of workers. The definition is intended to assure that the U.S. will be required to deal directly with only the agency administering the principal system (as the Italians would be required to deal with only one U.S. agency) and have that agency act for the smaller agencies.

The term "periods of coverage" includes both wages and self-employment income. Only periods of employment, or periods recognized as such (i.e., periods of self-employment or gratuitous periods), for which earnings or contributions are credited would be taken into consideration under the Agreement.

The self-employed are included in the term "workers" and the term is limited to those who are covered under the social security laws.

h. The term "family members" shall mean the persons defined as eligible for benefits on the earnings record or periods of coverage of a living worker, whichever is applicable, as established under the laws of each of the Contracting States:

i. The term "survivors" shall mean the persons defined as eligible for benefits on the earnings record or periods of coverage of a deceased worker, whichever is applicable, as established under the laws of each of the Contracting States;

2. Notwithstanding the provisions of paragraph 1, as regards the Italian Republic, the present Agreement will be applied to legislation concerning other social security systems for similar cases which will be indicated by the competent authorities of the Italian Republic.

3. This Agreement shall also apply to future laws amending or supplementing the laws specified in this Article.

ARTICLE 3

1. The present Agreement shall apply to workers who have periods of coverage under the laws, and to their family members or survivors.

2. The present Agreement shall not apply to periods of service as a diplomatic or career consular officer, or officer of a chancery, nor except insofar as provided under Article 2.2, to periods of service covered under special systems for employees of the Government or of Government agencies or instrumentalities ("enti pubblici").

Since the U.S. law does not provide definitions of "family members" and "survivors", the definitions of these terms in paragraphs 1.h and 1.i are made compatible with U.S. law.

See comments on paragraph 1.h.

Article 2.2 makes it possible for the Agreement to apply to certain special systems in Italy, such as those for employees of public utilities which are not generally considered to be a part of the general system.

The Agreement shall also apply to future laws amending or supplementing the laws specified in Article 2.1.

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Article 3.1 provides that the Agreement applies to all workers who have periods of coverage under the laws of both States and to their eligible dependents and survivors, regardless of nationality or residence.

Article 3.2 provides that the Agreement shall not apply to the services of a diplomatic or career consular officer or a Government employee except those services of a Government employee covered by the laws specified in Article 2.1 as laws to which this Agreement applies. Under this provision Italian nationals working for the U.S. Embassy in Italy would not be subject to this Agreement. The Depart-

SOCIAL SECURITY TOTALIZATION AGREEMENT

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ARTICLE 4

The persons to whom the provisions of this Agreement apply shall have the same rights and obligations under the social security laws of each Contracting State under the same conditions as if such persons were covered solely under the social security laws of such State, whether they reside in the territory of a Contracting State or in a third State.

ARTICLE 5

For the purposes of eligibility for voluntary or optional insurance, in accordance with the provisions of the laws of a Contracting State, the periods of coverage completed under the laws of such State shall be combined, where necessary, with the periods of coverage completed under the laws of the other State.

ARTICLE 6

Except as otherwise provided in this Agreement, the persons eligible for benefits under the laws of one Contracting State, including benefits arising under this Agreement, shall receive them fully and without limitation or restriction while they reside in the territory of the other State. Such benefits shall be paid by each State to

ment of State favors the exclusion of such Italian nationals who are generally covered under the U.S. civil service retirement system.

Article 4 provides that persons to whom the Agreement applies would have the same rights and obligations as persons covered solely under the laws of one State.

Article 5 provides that periods of coverage under each State may be combined for purposes of eligibility for voluntary or optional insurance. This provision does not affect rights under title II, but provides a very important right under Italian law.

Article 6 contains provisions relating to payment of benefits outside the paying State. It provides for benefit payments to entitled persons without restrictions due to absence from the U.S. where the beneficiary resides in Italy. (Nationality would no longer affect the payment of benefits, as it now does under U.S. law, with respect to

persons to whom the provisions of this Agreement apply who reside in a third State on the same terms and to the same extent that such benefits would be paid if such persons had been covered entirely under the social security laws of the paying State.

PART II. PROVISIONS RELATING TO THE APPLICABLE LAWS

ARTICLE 7

1. Persons to whom this Agreement applies who are employed or self-employed (che svolgono la loro attivita) within the territory of one of the contracting States shall be subject to the laws of such State, except as otherwise provided in this Article.

2. Services performed by a United States national in Italy which are covered under the laws of the United States shall remain covered under the laws of the United States.

3. Services performed by an Italian national in the United States for an Italian employer or for an enterprise controlled by an Italian firm shall be covered under the laws of Italy.

4. With respect to any services which are subject to the laws of both States, the following rules will be applied:

- a. a national of one of the States who, with respect

some third country nationals residing in Italy.) Also, it provides that residents of a third State will, regardless of nationality, receive benefit payments under the same conditions which otherwise govern the paying State in making payments to such persons. Thus, no change would be made by this Agreement in the present U.S. foreign payment provisions applicable to residents of third countries. This provision is in accordance with section 233(c)(2)(A) of the Social Security Act.

This article is in conformity with section 233(c)(1)(B) of the Social Security Act.

Article 7 is intended to eliminate dual coverage, i.e., situations where a worker is covered under the laws of both States with respect to the same services. In so doing, the existing coverage provisions of the laws of both States are preserved to the greatest extent possible. In cases of dual coverage the service would generally be exempt from coverage under the laws of the State with the least direct connection with the worker. The first three paragraphs of this Article create parallel dual coverage. Article 7.1 confirms the principle that a national of one State working in the other State is entitled to be covered there. Article 7.2 establishes that work in Italy by a U.S. national which is presently covered in the U.S. will remain so. Article 7.3, in effect, changes Italian law so that work performed in the U.S. by Italian nationals would be covered mandatorily in Italy, rather than voluntarily as at present.

Article 7.4 provides three exceptions to the preceding paragraphs: (a) a national of one State covered in both remains covered in the State of which he is a national and

SOCIAL SECURITY TOTALIZATION AGREEMENT

to the same period of work, would be subject to the laws of both States shall remain subject for such period to the laws of the State of which he is a national and shall be exempt from the laws of the State of which he is not a national;

b. a national of Italy or a national of both States who, with respect to the same period of work, would be subject to the laws of both States shall, for such period, elect to remain subject to the laws of one of the States and shall be exempt from the laws of the other State;

c. a person who is not a national of either State and who, with respect to the same period of work, is subject to the laws of both States shall be subject, for such period, to the laws of the State in which the work is performed and shall be exempt from the laws of the other State.

5. The exemptions provided under this Article shall be effective when the agency of the State in which the periods of work are covered pursuant to paragraph 4 certifies to the agency of the other State that such periods of work are covered under its laws.

6. The competent authorities of the States may agree in the interest of a worker or on behalf of categories of workers to other exceptions to the rule provided in paragraph 1.

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is exempt in the other; (b) dual nationals with dual coverage, and Italians working in the United States for Italian employers, may elect the State in which they are to be covered (presumably dual nationals will choose to remain covered under the system where they can maintain continuity of coverage while some Italians who come to work in the United States, even temporarily, may prefer to be covered in the United States rather than in Italy); (c) third country nationals are covered where they work. Restrictions on the exercise of elections are contained in Article 3.3 of the Administrative Protocol.

Article 7.5 specifies the period for which a coverage exemption shall be effective.

Article 7.6 provides for the exemption from coverage of other workers upon agreement between the United States and Italy. This provision is designed to permit the competent authorities to correct anomalous situations that arise to the disadvantage of workers who do not fall under one of the other exceptions to paragraph 1.

PART III. SPECIAL PROVISIONS—DISABILITY, OLD-AGE, AND SURVIVORSHIP

ARTICLE 8

1. With respect to a period of work which results in a period of coverage under the laws of both Contracting States, the agency of each State shall for purposes of Article 8.2 and Article 9.2 take into consideration the period of coverage which results under the laws of that State.

2. If the laws of one State require completion of periods of coverage as a prerequisite for the acquisition, retention, or recovery of the right to benefits, the agency which applies such laws shall take into consideration, for such purpose, insofar as necessary, the periods of coverage completed under the laws of the other State, as if these were periods of coverage completed under the laws of the first State. Such agency shall take into consideration all the periods of coverage required to ensure the right to the fullest benefits provided for by the laws which it applies.

3. If the laws of a State establish as a condition for receiving certain benefits that the periods of coverage be completed in a given profession or occupation which is subject to a special system of insurance, in determining eligibility for such benefits only the periods completed under a corresponding system of the other State or, failing that, in the same profession or occupation—even if a special system for said profession or occupation does not exist in the other State—shall be counted. If the total of such periods of coverage does not result in entitlement under the special system, such periods shall be used to determine eligibility for benefits of the general system of insurance

Part III is in conformity with section 233(c)(1) (A) and (C) of the Social Security Act.

Article 8.1 provides that in dual coverage situations (primarily those which occurred before this Agreement becomes effective) a State shall take into account only the period of coverage under its own laws for insured status and benefit computation purposes.

Article 8.2 relates to insured status, and provides that if completion of periods of coverage is a requirement for eligibility for benefits under the laws of one State, such State shall independently take into account, if necessary to establish eligibility, the periods of coverage completed under the laws of the other State.

Article 8.3 is included in the Agreement for the benefit of Italy, which has separate social security systems for certain occupational groups. It provides that if the laws of one State require that as a condition for receiving certain benefits periods of coverage must be completed in an occupation that is subject to a special social security system or in a given job, only periods of coverage under the laws of the other State under a corresponding special system or in the same occupation or job shall be counted. If the total of such periods of coverage does not qualify the worker for benefits under the special system, such periods shall be credited under the general system. However, this para-

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or some other applicable system of insurance; provided, however, that the provisions of this paragraph shall apply only when they would result in payment of the highest possible benefit amount.

4. The agency of the United States shall not be obliged to apply the provisions of this Article in the case of a worker who has less than 6 quarters of coverage under the United States law; the agency of Italy shall not be obliged to apply the provisions of this Article in the case of a worker who has less than 1 year of coverage under the Italian law.

ARTICLE 9

1. When a worker, family member, or survivor satisfies the conditions imposed by the laws of a Contracting State for eligibility for benefits, without the need to invoke the provisions of Article 8, the agency of that State shall establish, according to the provisions of the said laws, the basic benefit amount based on the total periods of coverage completed by the worker under the laws of such State.

2. Whether or not paragraph 1 applies, the agency of each of the States shall determine the theoretical basic benefit amount by considering all the periods of coverage completed under the laws of the two States as if they had been completed exclusively under its own laws. The agency in question shall then establish the pro rata basic benefit amount on the basis of the theoretical basic benefit amount by applying the ratio of the total periods of coverage completed under the laws which it applies to the total of all the periods of coverage completed under the laws of the two States.

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graph applies only if it would result in payment of a higher benefit amount.

Article 8.4 provides that the United States will not consider periods of coverage credited under the Italian system if the worker has less than 6 quarters of coverage under the U.S. system. This provision conforms to the requirements of Section 233(c)(1)(A) of the Social Security Act. Italy has elected a 1-year minimum period of coverage for this purpose.

The provisions under which benefits will be pro rated are set out in Article 9. Article 9.1 provides that if a worker is insured for benefits under the laws of one State without considering periods of coverage completed under the laws of the other State, such State shall compute the basic benefit amount based on the total periods of coverage completed under its own laws.

Article 9.2 provides that each State shall also compute a theoretical basic benefit amount by considering the total periods of coverage completed under the laws of the two States. Then each State shall determine the pro rata basic benefit amount according to the following formula:

$$\frac{\text{Periods of coverage in State A}}{\text{Total periods of coverage in both States}} \times \text{Theoretical basic benefit amount in State A} = \text{Pro-rata basic benefit amount in State A}$$

3. The worker shall elect within a specified time whether benefits shall be awarded by each of the States in accordance with the provisions of paragraph 1 or paragraph 2, and such election shall be applicable to all benefits payable to the worker and family members by each State.

4. In the case of survivors, benefit amounts shall be established by each of the States under the provisions of paragraphs 1 and 2. Survivors benefits shall be awarded by each of the States based on the provisions of either paragraph 1 or 2, whichever results in the higher total benefits payable, unless all survivors eligible for benefits elect to receive the lower total benefits payable.

5. The elections provided for in paragraph 3 and paragraph 4 shall be final, except in situations where Article 11 applies.

ARTICLE 10

1. For purposes of the computation of the theoretical basic benefit amount, the agency of each Contracting State shall take account of a worker's earnings in the other State in the following manner:

The United States will not count a calendar quarter more than once in determining the number of quarters of coverage to be used in the denominator of the fraction of the above formula.

Under Article 9.3 the worker must elect whether he wishes to have benefits payable by each State computed under Article 9.2. The election must be made within a specified time; otherwise benefits will be awarded under Article 9.1 or 9.2, whichever is higher. See Administrative Protocol Article 5.5, which provides that the elections must be made within 3 months from the date of the award.

Article 9.4 provides the method for determining whether benefits payable to survivors should be amounts determined with or without recourse to totalization. Survivors would be paid the higher of the two amounts, unless all the survivors choose otherwise.

Article 9.5 provides that an election made as provided in paragraphs 3 and 4 will be final except where Article 11 applies. A worker's election will be irrevocable during his lifetime for himself and his family (although not binding on survivors). This is intended to avoid having to make a new choice of the method of computation whenever there is a recomputation, benefit adjustment, or change in beneficiaries.

Article 10.1 provides the method of determining the amounts of wages, earnings, and contributions for periods of coverage completed under the laws of one State that shall be considered in computing a pro rata benefit under

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a. as regards the agency of the United States, the earnings in any year to be taken into consideration for periods of coverage completed under Italian laws shall be the equivalent of the earnings credited under the system of insurance in Italy for such year, subject to the maximum creditable earnings limitation under the laws of the United States for such year.

b. as regards the agency of the Italian Republic, for the periods of coverage completed under the laws of the United States there shall be credited the average salary or average contributions derived exclusively from the salary received or the credited contributions resulting from the periods of coverage completed under the laws of Italy.

2. If, under the laws of one State, the amount of benefits varies according to the number of family members, the agency of such State shall also take into account family members who are residing in the territory of the other State.

ARTICLE 11

1. Upon application, benefits awarded under the provisions of Article 9.2 shall be recomputed by both States in

the laws of the other State. Because wage levels and benefit computation methods are very different in the two States, different provisions have been developed for each State: paragraph 1.a applies to the U.S. and paragraph 1.b applies to Italy.

Paragraph 1.a provides that the U.S. shall consider the dollar equivalent of actual earnings under the Italian laws (up to the U.S. maximum for the year) in computing pro rata benefits in the same way as if they were earnings under its own laws.

Paragraph 1.b provides that Italy shall deem the earnings in U.S. periods of coverage to be equal to the average salary or average contributions resulting from periods of coverage completed only under the laws of Italy.

Article 10.2 provides that when benefit amounts payable by one State vary according to the number of family members, family members residing in the other State shall also be taken into account. This provision is included for purposes of assuring that benefits under Italian law will be payable to (or on behalf of) family members residing in the United States.

Article 11.1 provides that pro rata benefits may be recomputed to take into account additional periods of cover-

accordance with the provisions of Article 9.2 to take into account additional periods of coverage completed under the laws of either Contracting State.

2. Notwithstanding the provisions of Article 9.5, benefits shall be recomputed under the provisions of Article 9 when:

a. a worker who has made an election under Article 9.3 subsequently becomes eligible for benefits under the laws of one or both States without the need to invoke the provisions of Article 8; or

b. the method of computing benefits under the system of insurance of a State is changed by amendments to the law governing such computations.

3. Notwithstanding the provisions of Article 9.5, if the entitlement of all beneficiaries receiving benefits under the provisions of Article 9 terminates, the benefits of any person who later becomes entitled to benefits based on the periods of coverage of the same worker shall be computed under the provisions of Article 9.

ARTICLE 12

If the beneficiary becomes eligible under Article 9.2 for benefits paid by the agencies of both Contracting States and if the amount of such combined benefits is less than the benefit amount which would be payable, based on the minimum basic benefit amount, to such beneficiary by the agency of the State in which he resides, the agency of that

age completed in either State. However, the Agreement does not generally permit a new election of the method of determining a benefit when the worker has additional periods of coverage except as provided in Article 11.2. Article 8 of the Administrative Protocol establishes procedures for the recomputation of benefits.

Article 11.2 provides an exception to the provision in Article 9.5 (under which an election of method for determining a benefit is final) so that the benefits of a person who later becomes eligible for benefits from either or both States without the need to consider periods of coverage completed in the other State shall have his benefits recomputed. Also, an opportunity for a new election will be provided if the laws of either State changes the method of computing benefits.

Article 11.3 provides an additional exception to Article 9.5 so that if the entitlement of all beneficiaries terminates and if any person later becomes entitled to benefits based on the same worker's periods of coverage, then a new election as to the method of determining a benefit amount will be made.

Article 12 provides that if the combined pro rata benefits payable to a beneficiary by the two States are less than the minimum benefit (in the case of the U.S., the benefit amount which would be payable to such a beneficiary based on the minimum PIA) of the State where he resides, that State shall pay the beneficiary the difference between its

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State shall, at its own expense, pay the difference between the amount of such combined benefits and the amount of benefits which would be payable to such beneficiary based on such minimum basic benefit amount.

PART IV. MISCELLANEOUS, TRANSITORY, AND FINAL PROVISIONS

ARTICLE 13

The competent authorities and agencies of the two Contracting States shall assist each other in applying the present Agreement as if they were applying their respective laws; such reciprocal assistance shall be free of charge.

ARTICLE 14

1. The competent authorities of the two Contracting States shall by mutual agreement establish such administrative procedures as may be required to implement this Agreement and each competent authority shall designate one coordinating agency or organization to facilitate the application of this Agreement.

2. The competent authorities of the two States shall communicate to each other all information relating to regulations, administrative procedures, and amendments to their laws which may affect the application of this Agreement.

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minimum benefit and the beneficiary's combined pro rata benefits. This provision is in conformity with Section 233 (c) (2) (B) of the Social Security Act. See comment on Article 9 of the Administrative Protocol.

Article 13 provides for nonreimbursable reciprocal assistance between the States in applying the Agreement.

Article 14.1 provides for the establishment of mutually acceptable procedures to administer the Agreement and for the designation of one agency in each country to coordinate the application of the Agreement.

Article 14.2 provides for an exchange between the agencies responsible for administration of the Agreement of all pertinent regulations, administrative procedures, amendments to laws, and any related information which may affect application of the Agreement.

ARTICLE 15

The diplomatic and consular authorities of each Contracting State shall be empowered to address themselves directly to the competent authorities or agency of the other State in order to obtain useful information for safeguarding the interests of their own nationals, and may represent them without special mandate.

ARTICLE 16

1. Exemptions from duties, taxes, and fees provided for by the laws of either State shall also be valid for the application of the present Agreement, irrespective of the nationality of the beneficiaries.

2. The requirements imposed by the laws or regulations of either Contracting State relating to the certification ("legalizzazione") of all certificates or other documents shall be applied in respect to all certificates or other documents which must be presented for purposes of the application of this Agreement.

3. The certification as to the authenticity of a certificate or document, or a copy thereof, by the competent authorities or agency of one State shall be accepted as authentic by the competent authorities or agency of the other State.

ARTICLE 17

The competent authorities and the designated coordinating agencies or organizations of the two Contracting

Article 15 provides for direct communication by diplomatic and consular authorities with the administrative agency of the other State when necessary to safeguard the interests of their own nationals.

Article 16.1 provides that exemptions from duties, taxes, and fees shall apply regardless of the nationality of the beneficiaries. This provision applies only with respect to the laws of Italy which impose a document stamp tax and other fees.

Article 16.2 provides that the requirements of either State relating to the certification of documents submitted for purposes of the Agreement shall apply, since liberalization of policy in this regard only for persons to whom the Agreement applies does not appear justified.

However, Article 16.3 provides that if the competent agency of one State certifies to the authenticity of a document, the document shall be accepted as authentic by the other State.

Article 17 provides for direct correspondence between the administrative agencies of the two States and between

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States may correspond directly with each other and with any persons wherever they may reside, whenever such correspondence is necessary for the administration of this Agreement. Correspondence may be drafted in the writer's official * * *.

ARTICLE 18

The petitions which the beneficiaries address to the competent authorities or agency of either Contracting State for the application of the present Agreement may not be rejected merely because they are written in the official language of the other State.

ARTICLE 19

1. The applications and other documents presented in writing to the competent authorities or agency of either Contracting State shall have the same effect as if they were presented to the corresponding authorities or agency of the other State.

2. An application for benefits filed with the competent authorities or agency of one State is to be considered as an application for the payment of benefits by the agency of the other State, if the applicant explicitly requests that his application be so considered.

3. An appeal which must be filed within a given period of time with the competent authorities or agency of one of the States shall be considered to have been filed within such time limit if the appeal has been filed within such

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the administrative agencies and any persons they may find it necessary to communicate with.

Article 18 provides, in effect, that claims, appeals, etc., by beneficiaries may be written in the official language of either State.

Article 19.1 provides that claims, documents, etc., may be effectively presented to either State. Where applicable, such claims, etc., to be filed with one State shall be considered timely filed if received timely by either State.

Article 19.2 provides that an application for benefits filed with one State is to be considered an application for benefits by the other State if the applicant so requests.

Article 19.3 provides that an appeal which must be filed within a time limit shall be considered filed timely if filed within such limit with the other State. The State with which the appeal is filed shall transmit it without delay to

period of time with the competent authorities or agency of the other State. In such case the authorities or agency with which an appeal is filed shall without delay transmit the said appeal to the competent authorities or agency of the other State, and acknowledge to the appellant that the appeal has been received.

ARTICLE 20

1. The competent authorities of the two Contracting States shall jointly establish procedures to resolve any problems or disagreements which may arise with regard to the application or interpretation of the present Agreement.

2. The competent authorities of the two States shall establish a permanent arbitration procedure for the consideration and resolution of any problems or disagreements which cannot be resolved under procedures established in accordance with paragraph 1. The arbitral body established under this paragraph shall settle questions referred to it in accordance with the principles of this Agreement. Decisions of the arbitral body shall be final and binding for purposes of the question referred to it, on the competent authorities and agencies of both States.

3. The arbitral body established under paragraph 2 shall consist of three members. The competent authorities of the two States shall each designate one member. The third member shall be designated by agreement of the two competent authorities.

ARTICLE 21

1. Pending the final determination of a beneficiary's rights under this Agreement, including settlement of any

the other State and shall notify the applicant that his appeal has been received.

Article 20.1 provides that the States shall jointly establish procedures to resolve problems or disagreements which may arise from the application of the Agreement.

Article 20.2 provides for administrative procedures to resolve such issues and for the establishing of a binding arbitral body to settle questions which cannot be resolved under the administrative procedures. The decisions of the arbitral body shall be binding only on the administrative agencies of both States (and only for purposes of the question referred to the arbitral body) so that the right of a claimant to seek judicial review provided under U.S. law will not be impaired.

Article 20.3 provides for the selection of members of the arbitral body.

Article 21 provides for the payment of provisional benefits pending the final decision as to a beneficiary's rights,

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question under Article 20 between the competent authorities and agencies of the two Contracting States, the beneficiary whose rights are involved shall be awarded provisional benefits in accordance with this Article until such time as such determination has been made.

2. Each agency shall award the beneficiary, as provisional benefits, the benefits, if any, to which he would be entitled under its own laws or under this Agreement.

3. a. The agencies of both States shall establish procedures for adjusting their respective liabilities for benefits during the period in which provisional benefits were paid pending the final determination referred to in paragraph 1.

b. In giving effect to such procedures, the agency of either State shall withhold from payments it makes, based on the rights of a beneficiary as finally determined, amounts permitted by the laws of that State sufficient to reimburse the agency of the other State for amounts paid as provisional benefits in excess of the amounts finally awarded to such beneficiary.

ARTICLE 22

1. The agencies of the Contracting States, which have obligations relating to benefits to be paid in the other State under the present Agreement, shall validly discharge such obligations in the currency of their own State.

2. In case provisions designed to restrict the exchange of currencies are issued in either State, both Governments shall immediately adopt the necessary measures to

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including the settlement of a disagreement between States concerning application of this Agreement.

Article 21.2 provides that each State shall award, as provisional benefits, the benefits payable, if any, under its own laws or under this Agreement.

Paragraph 3.a provides for the States to establish procedures for adjusting their respective liabilities for benefits during periods in which provisional benefits were paid.

Paragraph 3.b permits the recovery of overpayments arising out of the payment of provisional benefits by the withholding of benefits by one State (in accordance with its laws) to reimburse the other State.

Article 22 provides that each State shall pay benefits under this agreement to residents of the other State in its own (paying State's) currency. In the event restrictions on the exchange of currency are issued in the future, the States shall adopt the necessary measures to ensure payment of benefits in accordance with this Agreement.

insure, in conformity with the provisions of the present Agreement, the transfer of sums owed by either party.

ARTICLE 23

1. The provisions of this Agreement shall apply to any application for benefits (including a new application of an individual who has previously applied for benefits) which is filed on or after the date this Agreement enters into force.

2. In the application of the present Agreement, the periods of coverage completed prior to its entry into force shall be taken into consideration except that neither Contracting State shall take into account periods of coverage occurring prior to the effective date of its laws.

3. If previous claims were satisfied through a lump-sum payment because of insufficient periods of coverage and if, with the application of the provisions of this Agreement, the beneficiary meets the conditions required for receiving a pension, he may request a review of action taken on his case.

4. This Agreement shall not result in the payment of benefits for periods prior to the date of its entry into force.

Article 23 defines when the Agreement shall become effective. The Agreement shall not be applicable to claims filed prior to the effective date. (This reflects the usual procedure in the U.S. in requiring new applications with respect to amendments to the law.) Requiring a new application avoids problems, such as identifying the beneficiaries to whom the Agreement applies, and provides a means of obtaining necessary information.

Under paragraph 2, periods of coverage completed prior to the effective date of the Agreement shall be considered in applying the Agreement. However, the Agreement, in effect, precludes the use by the U.S. of periods of coverage completed in Italy prior to 1937 since it would be inappropriate to give credit for purposes of the Agreement for periods in which there was no U.S. social security coverage available.

Paragraph 3 provides that if a prior application for benefits has been satisfied by a lump-sum payment because of lack of insured status and a benefit would be payable as a result of totalization, the individual may request a review of his case, to be carried out by each State in accordance with its laws. (This would apply only to Italy since U.S. social security laws do not provide for such lump-sum settlements.)

Paragraph 4 provides that no benefits shall be payable under the Agreement for periods prior to its effective date.

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ARTICLE 24

1. This Agreement shall be accepted and the instruments of acceptance shall be exchanged as soon as possible.

2. This Agreement shall enter into force on the first day of the month following the month in which the instruments of acceptance are exchanged.

3. a. This Agreement may be amended from time to time by supplementary agreements which shall take effect on the first day of the month following the month in which the instruments of acceptance of such supplementary agreements are exchanged; provided, however, that nothing in this paragraph shall be construed to prevent such supplementary agreements from being given retroactive effect if they so specify.

b. Any supplementary agreement which takes effect under the terms of this paragraph shall be deemed thereafter for purposes of this Article to be an integral part of this Agreement.

c. A meeting for the consideration of a supplementary agreement shall be called at the request of the competent authorities of either State.

4. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its renunciation is delivered to the competent authorities of one Contracting State by the competent authorities of the other State.

Article 24 concerns acceptance of the Agreement and provisions for future termination.

Paragraphs 1 and 2 provide for acceptance as soon as possible and for entry into force on the first day of the month following the month in which the instruments of acceptance are exchanged.

Paragraph 3 provides for amending the Agreement by supplementary agreements and provides for the effective date of such agreements. After a supplementary agreement becomes effective, it will thereafter be considered an integral part of the Agreement. Either State may call a meeting for consideration of a supplementary agreement.

Paragraph 4 provides for the Agreement to remain in effect until the expiration of 1 calendar year after notice of termination is given by one of the States.

5. If this Agreement is renounced, rights acquired shall be retained under the provisions of this Agreement and rights in the process of being acquired shall be recognized in conformity with supplementary agreements.

Done in Washington on this twenty-third day of May, 1973, in duplicate, in English and Italian, the two texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA :

CASPAR W. WEINBERGER.

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC: . . .

DIONIGI COPPO.

Paragraph 5 provides that, in the event of termination of the Agreement, acquired rights to benefits shall be retained by individuals and that rights in the process of being acquired, with respect to periods of coverage completed prior to termination of the Agreement, shall be retained in conformity with supplementary agreements.

ADMINISTRATIVE PROTOCOL FOR THE IMPLEMENTATION OF THE AGREEMENT ON SOCIAL SECURITY BETWEEN THE UNITED STATES OF AMERICA AND THE ITALIAN REPUBLIC
(Signed at Washington, D.C., on May 23, 1973)

SOCIAL SECURITY TOTALIZATION AGREEMENT

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PART I. GENERAL PROVISIONS

ARTICLE 1. DEFINITIONS

ARTICLE 1

For the purposes of the application of the Agreement and this Protocol:

1. The term "Agreement" means the Agreement between the United States of America and the Italian Republic on the matter of Social Security signed at Washington, D.C., on May 23, 1973;

2. The term "claimant" means a worker, family member, or survivor who has filed an application for benefits under the laws of either State or of both States;

3. The term "provisional benefits" means any benefit to which a claimant may be entitled before a final determination as to the claimant's rights has been made;

4. The terms defined in Article 1 of the Agreement will have the meaning given to them by the said Article.

Article 1 provides additional definitions to supplement those that exist in the agreement.

ARTICLE 2

1. The agencies responsible for applying this Protocol are:

(a) For the United States of America:
The Social Security Administration;

(b) For the Italian Republic:

—I.N.P.S. (Istituto Nazionale della Previdenza Sociale), General Directorate, Rome, for matters concerning disability, old-age and survivors insurance of employees, farmers, agricultural workers and sharecroppers, artisans, and businessmen;

—E.N.P.A.L.S. (Ente Nazionale di Previdenza e Assistenza per i Lavoratori dello Spettacolo), General Directorate, Rome, concerning disability, old-age and survivors insurance for workers in the entertainment business;

—I.N.P.D.A.I. (Istituto Nazionale di Previdenza per i Dirigenti di Aziende Industriali), General Directorate, Rome, concerning disability, old-age and survivors insurance for managerial personnel in industry;

—I.N.P.G.I. (Istituto Nazionale di Previdenza per i Giornalisti Italiani), General Directorate, Rome, concerning disability, old-age and survivors insurance for professional journalists.

7. The coordinating agencies designated under Article 14.1 of the Agreement to facilitate its application are:

(a) For the United States of America: The Social Security Administration;

Paragraph 1 contains a list of those agencies which will actually deal with claims.

Paragraph 2 lists those agencies which will coordinate claims-processing activities within their respective countries and through which communications will be directed. Their designation is provided for in article 14 of the agreement.

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(b) For the Italian Republic: The Istituto Nazionale della Previdenza Sociale General Directorate, Rome.

3. In carrying out their responsibilities under Article 14.1 of the Agreement, the Coordinating Agencies designated in paragraph 2 of this Article shall be responsible for the development of uniform policies and procedures and their uniform implementation by the Agencies in their respective States; for providing a channel of communication between the Agencies of one State and the Agencies of the other State; for determining which Agency is competent for the determination of a particular claim; and for facilitating the resolution of any issues that arise between the Agencies of the two States that cannot be resolved directly.

Paragraph 3 spells out in detail the responsibilities of the coordinating agencies listed in paragraph 2. These responsibilities include the formulation of uniform policies and procedures as well as their uniform implementation. The specific designation of these responsibilities is designed primarily to meet the administrative needs of Italy which has 11 semi-autonomous regional offices responsible for processing claims. The operating and coordinating agency of the United States will be the Social Security Administration. The coordinating agencies will endeavor to resolve any problems that arise in the administration of the agreement before it becomes necessary to refer them to the ministerial level.

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PART II. PROVISIONS RELATING TO APPLICABLE LAWS

ARTICLE 3. COVERAGE AND EXEMPTIONS

ARTICLE 3

1. The Agency of the State under whose laws the services of a worker will remain covered in accordance with paragraphs 2, 3, or 4 of Article 7 of the Agreement shall issue to the worker, his employer, or the Agency of the other State, a certificate to that effect when requested to do so by the worker, his employer, or the Agency of the other State.

Article 3 provides the methods and procedures for the elimination of coverage under both systems for the same work.

2. An exemption from the laws of one of the States, as provided for in Article 7.4 of the Agreement, shall apply

Under paragraphs 1 and 2 the agency of the country under whose laws an individual's services are to be covered will issue a certificate of coverage which when presented to the agency of the other country will result in an exemption from coverage under its laws.

to the period of work for which the certificate referred to in paragraph 1 of this Article was issued.

3. An election provided for in Article 7.4b of the Agreement or in this paragraph shall be exercised within 3 months following the month in which a period of work for any employer begins or the right to amend the election arises. The election shall be binding with respect to that period of work. In the case of an Italian national who is not a national of both States, any such election may be amended during the second year after the beginning of the period of work and the election as amended shall be applicable from the date it is made for future periods of work where Article 7.4b of the Agreement applies; except that such an Italian national shall be afforded the opportunity to further amend his election if he subsequently acquires or loses the status of permanent resident of the United States.

4. The obligation for payment of contributions and taxes in respect of old-age, survivors, and disability insurance of the United States of America shall be subject to the provisions of Chapter 2 and Chapter 21 of the Internal Revenue Code of 1954, as amended.

**PART III. APPLICATION OF PARTICULAR PROVISIONS OF
THE AGREEMENT REGARDING DISABILITY, OLD-AGE, AND
SURVIVORS INSURANCE**

ARTICLE 4. FILING AND PROCESSING CLAIMS

1. Claimants may avail themselves of their right to benefits under Articles 8 to 12 of the Agreement by filing

Paragraph 3 places limitations on the exercise of elections of which system will provide coverage under paragraph 7.4b of the agreement. The initial election must be exercised within 3 months of the commencement of the right to exercise the election. For Italian nationals, the election may be amended during the second year following the start of a particular period of work. Thereafter the initial or amended election shall apply to all future periods of work. Another election is permissible if an Italian national changes his status as to permanent U.S. residence.

Paragraph 4 clarifies that contributions and taxes for U.S. social security coverage are subject to the Internal Revenue Code.

ARTICLE 4

Article 4 provides the methods and procedures for filing and processing claims under the agreement.

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an application with an Agency of either State, according to the rules of that Agency. Such application must specifically express intent to claim benefits from the Agency of the other State. An application with a Consulate of the United States of America located in the Italian Republic shall be deemed to be filed with the Agency of the United States of America; however, the Consulate of the United States of America with which the application was filed shall transmit, without delay, a copy thereof to the Italian Agency.

2. The date an application referred to in paragraph 1 is filed with the Agency of one State shall be recognized as the date of filing by the Agencies of both States; however, the claimant may request that an application be effective on a different date in the other State, within the limitations of and in conformity with the laws of the other State.

3. The Agency with which a claim was first filed shall transmit without delay to the Agency of the other State applications and other forms agreed upon by the Competent Authorities of the two States. Such forms shall contain all available information considered necessary to credit periods of coverage completed in both States, and such other information for determining a claimant's entitlement to benefits and the amount of benefits, including earnings amounts needed for its own calculations by the U.S. Coordinating Agency. Earnings amounts provided by the Italian Agency for years in which coverage is reported

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Paragraph 1 requires an application for benefits under the agreement and makes provision for furnishing to the Italian government copies of applications filed in U.S. consulates. The application may be effective for benefits under one or both countries' laws at the option of the individual.

Under paragraph 2, an application which is filed with intent to claim benefits from both countries will have the same filing date in both countries unless the individual indicates a different filing date for one of the countries within the limits of applicable law.

Paragraphs 3, 4, and 5 outline the procedures to be followed by both countries for exchange of pertinent information needed to process claims under the agreement. Under paragraph 3 earnings information in Italian social security records which are not maintained in a form usable by the Social Security Administration will be converted to a usable form in a manner to be agreed upon by the authorities of both countries.

in terms of contributions and not in terms of earnings may be amounts derived by converting contributions made by workers into earnings amounts, using conversion tables agreed upon by the Competent Authorities of both States. In the case of an application for a disability benefit or, when necessary for a survivor's benefit, the relevant medical documentation which the Agency has in its possession shall be enclosed with the application form. The data on applications and forms shall be duly authenticated by the Agency that transmits the forms, and data on the authenticated forms shall be accepted as valid as the data on the original documents from which the data were extracted.

4. The Agency of a State which receives an application filed in the other State shall transmit without delay to the Agency of the other State the earnings information and other information referred to in the preceding paragraph.

5. The Agency of each State after determining the benefit amount due a claimant under the Agreement shall promptly advise the Agency of the other State of the benefit amount.

6. Each Agency shall be the final judge of the quality or probative value of documentary evidence presented to it from whatever source.

7. The limitations and restrictions mentioned in Article 6 of the Agreement refer only to limitations and restrictions on payment of benefits based solely on the physical presence or residence of the beneficiary.

Under Article 16, paragraph 3, of the principal agreement certification as to the authenticity of a document by one country will be accepted by the other country, but under paragraph 6 each country will be the final judge of the quality or probative value of the document.

Paragraph 7 makes clear that article 6 of the principal agreement only provides exemptions from alien nonpayment provisions such as those under section 202(t) of the Social Security Act.

SOCIAL SECURITY TOTALIZATION AGREEMENT

ARTICLE 5. TOTALIZATION AND PRO RATA CALCULATIONS

1. For the purpose of taking into consideration the periods of coverage as provided in Article 8 and for the purpose of computing benefits under Article 9.2 of the Agreement, the following rules apply (subject to the conditions established in Article 8.4 of the Agreement and the proviso in Article 2.1b of the Agreement):

a. The periods of coverage completed under the laws of one State shall be added to the periods of coverage completed under the laws of the other State, even if these periods have already given rise to the payment of a benefit from the first State;

b. When a period of coverage under compulsory insurance completed under the laws of one State coincides with a period of coverage under compulsory insurance completed under the laws of the other State, the Agency of each State shall consider for purposes of determining the right to benefits and the benefit amount only those periods that were completed under its laws;

c. If a period of coverage under compulsory insurance completed under the laws of one State coincides with a period of coverage based on voluntary insurance under the laws of the other State, only the period of coverage under compulsory insurance shall be considered.

2. For purposes of calculating a benefit payable by an Agency of the Italian Republic in accordance with Article

ANNOTATIONS AND COMMENTS

ARTICLE 5

Paragraphs 1-4 describe the methods whereby each country will consider periods of coverage credited in the other country for the purpose of determining the right to benefits and the benefit amounts.

Paragraphs 1 and 2 provide the method by which specific periods of coverage will be used in determining an individual's entitlement and benefit amount. Paragraph 1.b. provides that where there are periods of coverage credited in the same time period under both U.S. and Italian law, each State will credit only that coverage completed under its own law. Thus, the United States would not credit Italian earnings in any quarter in which a U.S. quarter of coverage is already credited.

9.2 of the Agreement, if a period of coverage under voluntary insurance completed under Italian law coincides with a period of coverage under compulsory insurance completed under United States law, only the latter period shall be considered. In such cases, the period of voluntary coverage shall be considered by the above-mentioned Agency according to the provisions of Italian law.

3. For the purposes of calculating a benefit payable by the United States of America, the pro rata basic benefit amount may be rounded to the nearest primary insurance amount appearing in Column IV of the table of benefits contained in section 215(a) of the Social Security Act (or deemed to be contained in such section) or to a primary insurance amount as set forth in an extension of that column from the minimum primary insurance amount down to the amount of \$1.00 in increments to be determined by the competent Authority of the United States of America.

4. Where a worker's periods of coverage are less than the minimum period required by Article 8.4 of the Agreement under the laws of one State, those periods of coverage will nevertheless be considered by the Agency of the other State as if they were periods of coverage under its own laws in order to both establish the right to benefits under Article 8.2 of the Agreement and the amount of the benefit under Article 9.2 of the Agreement, provided that:

a. The worker has the minimum period required by Article 8.4 of the Agreement under the laws of the other State; and

Paragraph 3 provides an optional method of rounding benefit amounts to amounts on the benefit table in the U.S. Social Security Act which the United States may use to facilitate computer processing of claims. It is intended that this provision will not apply under the benefit formula based on indexed earnings which generally becomes applicable under U.S. law to persons whose eligibility is established after 1978.

Paragraph 4 provides that only in cases where there is no benefit payable on the basis of a country's own periods of coverage will it take into account periods of coverage which are less than the minimum required in the other country.

SOCIAL SECURITY TOTALIZATION AGREEMENT

b. The individual claiming benefits based on the periods of coverage of the worker is not eligible for a benefit based on those periods of coverage under the laws of the other State without recourse to totalization under Article 8.2 of the Agreement.

5. When a claimant is entitled to a benefit under the provisions of paragraph 1 of Article 9 of the Agreement which would result in a higher benefit amount than would result from the claimant's entitlement under the provisions of paragraph 2 of Article 9, the Agency shall award benefits in accordance with paragraph 1. The notice of award shall also advise the claimant that he has the right to elect to receive benefit payments as provided for in either paragraph 3 or paragraph 4 of Article 9, within 3 months from the date of the award.

ARTICLE 6. RECOVERY OF OVERPAYMENTS

1. Whenever the Agency of one State has paid provisional benefits under paragraphs 1 and 2 of Article 21 of the Agreement to an individual in excess of the amount to which the individual is entitled under terms of the Agreement, the Agency may, within the conditions and limits prescribed by its laws, request the Agency of the other State to deduct the amount of the overpayment from the benefits which may later be payable by the other Agency to that individual, within the limits and conditions prescribed by the law under which it operates.

ANNOTATIONS AND COMMENTS

Paragraph 5 is intended to clarify the procedure to be followed with respect to the election of benefits as set forth in article 9 of the principal agreement. It provides that where an agency of a country can determine that a benefit under national law would be higher than a pro rata benefit (whether or not actual computation of the pro rata benefit is necessary) the agency will award the benefit payable under national law. The claimant will be advised in the award notice of his right under the agreement to elect the lower pro rata benefit.

ARTICLE 6

This article provides for the possibility of establishing procedures by which the agency of one country will recover from the benefit it pays overpayments made by the other country. Such procedures would be instituted only to the extent that they are permitted by the national law of the two countries.

2. When Agencies of both States have overpaid benefits to the same individual, an Agency may give precedence to recovery of the overpayment under its laws.

3. The Competent Authorities of both States shall establish by common agreement procedures for processing amounts of overpaid provisional benefits recovered by each State on the account of the other during the calendar year.

ARTICLE 7. MEDICAL EXAMINATIONS FOR DISABILITY

1. In making a determination of the degree of disability of a claimant or of a beneficiary for a benefit based on a disability, the Agency of each State shall take into account any medical findings provided by the Agency of the other State. This shall be without prejudice to the right of the Agency of each State to have the claimant examined by a qualified physician.

2. The Agency of one State shall make available to the Agency of the other State, at its request, any medical information and documentation concerning the claimant which may be in its possession.

3. Where the Agency of either State requires that the claimant submit to a medical examination, such examination shall if requested be arranged by the Agency of the State in which the claimant resides at the expense of the Agency which requests the examination. Where such a medical examination has been secured for its own purposes by an Agency which receives such a request, it shall furnish a report of the examination without expense to the other Agency.

ARTICLE 7

This article requires the agencies to consider medical evidence provided by the other country and to provide medical evidence that it obtains to the other country for purposes of making a determination of disability. The Agency of each State will make determinations of disability under its own laws.

SOCIAL SECURITY TOTALIZATION AGREEMENT

ARTICLE 8. RECOMPUTATION OF BENEFITS

1. A beneficiary may file an application with the Agency of either State for a recomputation of the benefit amount in accordance with Article 11.1 of the Agreement, to take into account additional periods of coverage completed under the laws of either State. An application for recomputation may be filed within the time limits provided by the laws of the State under which it is filed but in any case not more frequently than once per year. All such applications must be in written form and signed by the beneficiary involved. The Agency of the United States of America shall recompute benefits only if the additional earnings would increase the average monthly earnings on which the current benefit was computed. The Agency making the recomputation shall send the Agency of the other State information concerning the additional earnings or periods of coverage and concerning the amounts of the current and recomputed benefits. If the total amount of the benefits payable by both States after recomputation is less than the total payable without recomputation, the recomputation shall be disregarded.

2. (a) The Agency of each State shall upon request send the other State information concerning additional earnings or periods of coverage credited under its laws to claimants who have been awarded benefits in accordance with Article 8.2 of the Agreement.

(b) When an individual is entitled to a benefit from a State under Article 8.2 of the Agreement and subsequently

ANNOTATIONS AND COMMENTS

ARTICLE 8

Article 8 establishes the procedures for recomputation of pro rata benefits. It specifies that an application must be filed in order to become entitled to a recomputation and that such application may not be filed more than once a year. It also provides that the United States will not recompute pro rata benefits unless the additional earnings will increase an individual's average monthly earnings sufficiently to increase the primary insurance amount. The United States will disregard the recomputation if the total recomputed benefits of Italy and the United States payable to all beneficiaries would be less than those that were previously payable.

Paragraph 2(a) provides for the exchange of post-entitlement earnings information pertaining to individuals who have been awarded pro rata benefits.

Paragraph 2(b) provides that where fully insured status under national law is acquired subsequent to entitlement

meets the prerequisites for the receipt of a higher benefit from the same State under Article 9.1 of the Agreement, the higher benefit shall be paid automatically or upon request. In any case, the benefit shall be paid from the date that the prerequisites are met.

PART IV. MISCELLANEOUS AND FINAL PROVISIONS

ARTICLE 9. EXCHANGE OF INFORMATION

1. The Competent Authorities of the two States shall develop operating procedures and forms for the implementation of the Agreement and shall establish by common agreement procedures for the expeditious processing of claims filed under the Agreement.

2. The Competent Authorities of the two States shall meet to establish procedures for the implementation of Article 12 of the Agreement.

3. At the specific request of the Agency of one State, the Agency of the other State shall furnish information or copies of documents available to it relating to any specified claimant.

ARTICLE 10. APPEALS

1. An appeal from a decision of the Agency of one State may be filed with the Agency of either State for the purpose of protecting the filing date.

based on totalization and a higher benefit is payable without recourse to totalization such benefit may be paid automatically under U.S. law.

ARTICLE 9

Paragraph 1 provides for the establishment of procedures for the expeditious processing of claims.

Paragraph 2 provides for the establishment of special procedures to implement the guaranteed minimum benefit provision under article 12 of the principal agreement. Under the terms of the procès-verbal signed by the negotiators at the time the protocol was drafted, this paragraph is intended to mean that the guaranteed minimum benefit provision will be implemented only after the formulation of the necessary procedures.

Paragraph 3 provides for the exchange of information, such as copies of claims-related documents, upon request.

ARTICLE 10

Article 10 permits the filing of an appeal with either country and for each country to follow its own appellate procedures on appeals to its determinations.

SOCIAL SECURITY TOTALIZATION AGREEMENT

ANNOTATIONS AND COMMENTS

2. The Agency with which an appeal is filed shall notify the Agency of the other State if it is determined to be an appeal from a decision of the other State. The State whose decision is being appealed shall follow its normal appellate process on an appeal, and shall notify the other State of its decision.

ARTICLE 11. CONFIDENTIALITY OF EXCHANGED
INFORMATION

ARTICLE 11

1. The use of information furnished by one State to another with regard to an individual shall be governed by this Article.

2. Any information transmitted by one State to the other State about an individual shall be treated as confidential by the other State and its officials receiving such information, including the officials mentioned in Article 15 of the Agreement, and shall be used exclusively for purposes of the implementation of the provisions contained in the Agreement and this Protocol or for the purpose of administering other benefit programs under the legislation of the other State.

3. The term "information" includes, but is not limited to, application forms, documentary evidence, medical evidence, certificates of election, any other papers furnished by an individual, notices to an individual, and all records, in whatever form, furnished by one State to

Article 11 provides assurances that each country will protect the confidentiality of information transmitted about an individual and that this information will be used exclusively for the purposes of implementing the agreement, the protocol, or other benefit programs under national legislation.

the other which contain information concerning an individual, his earnings, the names of his employers, his present or past whereabouts, or his medical condition.

4. Use of information which does not pertain to or which does not identify a specific individual, such as in the case of statistical or research reports, shall be governed by the legislation or regulations of the respective States.

5. The right of an individual to inspection of records containing information pertaining to him shall be governed by the legislation or regulations of the State where the record is maintained.

ARTICLE 12. ENTRY INTO FORCE

This Administrative Protocol shall enter into force on the date the Agreement enters into force and shall be coterminous with that Agreement.

Done in Rome, November 22, 1977, in duplicate originals in the English and Italian languages each equally valid.

For the United States of America :

For the Italian Republic :

ARTICLE 12

Article 12 gives this protocol the same effective date as the agreement.

**REPORT OF THE SOCIAL SECURITY ADMINISTRATION
ON THE EFFECT OF THE SOCIAL SECURITY AGREEMENT
BETWEEN THE UNITED STATES AND ITALY ON
INCOME AND EXPENDITURES OF SOCIAL SECURITY
PROGRAMS AND THE NUMBER OF INDIVIDUALS AF-
FECTED BY THE AGREEMENT**

This report presents estimates of benefit costs and reductions in contribution income resulting from the totalization agreement with Italy. Also presented are estimates of the number of persons affected by the Agreement. The estimates are based on the assumption that the agreement will become effective July 1, 1978.

The following table contains estimates of additional old-age, survivors and disability insurance (OASDI) benefit payments, over and above payments under present law, in fiscal years 1978, 1979, and 1980. The estimates are based on the assumption that the backlog of new claims would be processed by the end of fiscal year 1979, so that the estimate for fiscal year 1980 represents an "ongoing" cost.

	[In millions]	<i>Additional benefit payments</i>
Fiscal year:		
1978.....		(1)
1979.....		\$4
1980.....		3

¹ Less than \$500,000.

Estimates of the amount of reduction in total tax contribution income for the old-age, survivors, disability and health insurance programs are shown below in the following table for fiscal years 1978, 1979, and 1980:

	[In millions]	<i>Reduction in OASDI and HI tax contributions</i>
Fiscal year:		
1978.....		(1)
1979.....		\$1
1980.....		2

¹ Less than \$500,000.

Estimates of the number of persons not eligible for OASDI benefits under present law who would become immediately eligible for such benefits are shown in the following table:

Retired or disabled workers.....	5, 000
Dependents and survivors.....	3, 000
Total.....	8, 000

Also, many persons already eligible for U.S. OASDI benefits will qualify for additional benefits from the Italian Government under the agreement.

The ongoing number of persons becoming eligible for U.S. OASDI benefits as a result of the agreement is estimated to be less than 1,000 annually.

About 1,000 employees, and their employers, will no longer make tax contributions to the OASDI and health insurance trust funds as a result of the agreement.

95TH CONGRESS
1ST SESSION

H. R. 8057

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1977

Mr. BURKE of Massachusetts introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act, the Internal Revenue Code of 1954, as amended, and the Railroad Retirement Act of 1974 to permit combined reporting of wages by employers for old-age, survivors, disability, and health insurance and income tax withholding purposes on an annual basis, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, with the following table of contents, may be
4 cited as the "Combined Social Security and Income Tax
5 Annual Reporting Amendments of 1977".

TABLE OF CONTENTS

TITLE I—AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT

- Sec. 101. Annual crediting of quarters of coverage.
Sec. 102. Adjustment in amount required for a quarter of coverage.
Sec. 103. Technical and conforming amendments.
Sec. 104. Definition.

TABLE OF CONTENTS—Continued

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE
CODE OF 1954, AS AMENDED

Sec. 201. Deduction of tax from wages.

Sec. 202. Technical and conforming amendments.

TITLE III—CONFORMING AMENDMENT TO THE
RAILROAD RETIREMENT ACT OF 1974

Sec. 301. Computation of employee annuities.

1 TITLE I—AMENDMENTS TO TITLE II OF THE
2 SOCIAL SECURITY ACT

3 ANNUAL CREDITING OF QUARTERS OF COVERAGE

4 Amendments to Definitions of Wages and Employment

5 SEC. 101. (a) (1) Sections 209 (g) (3), 209 (j), 210
6 (a) (17) (A), and 210 (f) (4) (B) of the Social Security
7 Act are each amended by striking out “quarter” wherever it
8 appears and inserting in lieu thereof “year”.

9 (2) Sections 209 (g) (3) and 209 (j) of that Act are
10 each further amended by striking out “\$50” and inserting
11 in lieu thereof “\$100”.

12 (3) (A) Section 209 of that Act is amended by striking
13 out “or” at the end of subsection (n), by striking out the
14 period at the end of subsection (o) and inserting in lieu
15 thereof “; or”, and by inserting after subsection (o) the fol-
16 lowing new subsection:

17 “(p) Remuneration paid by an organization exempt
18 from income tax under section 501 of the Internal Reve-
19 nue Code of 1954 in any calendar year to an employee for

1 service rendered in the employ of such organization, if the
2 remuneration paid in such year by the organization to the
3 employee for such service is less than \$100.”.

4 (B) Section 210 (a) (10) of that Act is amended by
5 striking out subparagraph (A), redesignating subparagraph
6 (B) as paragraph (10), and redesignating clauses (i) and
7 (ii) as subparagraphs (A) and (B), respectively.

8 Amendment of Provisions for Crediting Self-Employment

9 Income to Calendar Quarters

10 (b) Section 212 of the Social Security Act is amended
11 to read as follows:

12 “CREDITING OF SELF-EMPLOYMENT INCOME TO

13 CALENDAR YEARS

14 “SEC. 212. (a) For the purposes of determining aver-
15 age monthly wage and quarters of coverage the amount of
16 self-employment income derived during any taxable year
17 which begins before 1978 shall—

18 “(1) in the case of a taxable year which is a calen-
19 dar year, be credited equally to each quarter of such
20 calendar year; and

21 “(2) in the case of any other taxable year, be
22 credited equally to the calendar quarter in which such
23 taxable year ends and to each of the next three or fewer
24 preceding quarters any part of which is in such taxable
25 year.

1 “(b) For the purposes of determining average monthly
2 wage and quarters of coverage the amount of self-employ-
3 ment income derived during any taxable year which begins
4 after 1977 shall—

5 “(1) in the case of a taxable year which is a
6 calendar year or which begins with or during a calendar
7 year and ends with or during such year, be credited to
8 such calendar year; and

9 “(2) in the case of any other taxable year, be
10 allocated proportionately to the two calendar years,
11 portions of which are included within such taxable year,
12 on the basis of the number of months in each such
13 calendar year which are included completely within the
14 taxable year.

15 For purposes of clause (2), the calendar month in which a
16 taxable year ends shall be treated as included completely
17 within that taxable year.”.

18 Amendment of Definition of Quarter of Coverage

19 (c) Section 213 (a) (2) of the Social Security Act is
20 amended to read as follows:

21 “(2) (A) The term ‘quarter of coverage’ means—

22 “(i) for calendar years before 1978, and subject to
23 the provisions of subparagraph (B), a quarter in which
24 an individual has been paid \$50 or more in wages
25 (except wages for agricultural labor paid after 1954)

1 or for which he has been credited (as determined
2 under section 212) with \$100 or more of self-
3 employment income; and

4 “(ii) for calendar years after 1977, and subject
5 to the provisions of subparagraph (B), each portion
6 of the total of the wages paid and the self-employment
7 income credit (pursuant to section 212) to an individ-
8 ual in a calendar year which equals \$250, with such
9 quarter of coverage being assigned to a specific calendar
10 quarter in such calendar year only if necessary in the
11 case of any individual who has attained age 62 or died
12 or is under a disability and the requirements for insured
13 status in subsection (a) or (b) of section 214, the
14 requirements for entitlement to a computation or
15 recomputation of his primary insurance amount, or the
16 requirements of paragraph (3) of section 216 (i) would
17 not otherwise be met.

18 “(B) Notwithstanding the provisions of subparagraph
19 (A)—

20 “(i) no quarter after the quarter in which an
21 individual dies shall be a quarter of coverage, and no
22 quarter any part of which is included in a period of
23 disability (other than the initial quarter and the last
24 quarter of such period) shall be a quarter of coverage;

25 “(ii) if the wages paid to an individual in any

1 calendar year equal to \$3,000 in the case of a calendar
2 year before 1951, or \$3,600 in the case of a calendar
3 year after 1950 and before 1955, or \$4,200 in the case
4 of a calendar year after 1954 and before 1959, or \$4,800
5 in the case of a calendar year after 1958 and before 1966,
6 or \$6,600 in the case of a calendar year after 1965 and
7 before 1968, or \$7,800 in the case of a calendar year
8 after 1967 and before 1972, or \$9,000 in the case of a
9 calendar year after 1971 and before 1973, or \$10,800
10 in the case of a calendar year after 1972 and before
11 1974, or \$13,200 in the case of a calendar year after
12 1973 and before 1975, or an amount equal to the con-
13 tribution and benefit base (as determined under section
14 230) in the case of any calendar year after 1974 with
15 respect to which such contribution and benefit base is
16 effective, each quarter of such year shall (subject to
17 clauses (i) and (v)) be a quarter of coverage;

18 “(iii) if an individual has self-employment income
19 for a taxable year, and if the sum of such income and
20 the wages paid to him during such year equals \$3,600
21 in the case of a taxable year beginning after 1950 and
22 ending before 1955, or \$4,200 in the case of a taxable
23 year ending after 1954 and before 1959, or \$4,800 in
24 the case of a taxable year ending after 1958 and before
25 1966, or \$6,600 in the case of a taxable year ending

1 after 1965 and before 1968, or \$7,800 in the case of
2 a taxable year ending after 1967, or \$9,000 in the case
3 of a taxable year beginning after 1971 and before
4 1973, or \$10,800 in the case of a taxable year begin-
5 ning after 1972 and before 1974, or \$13,200 in the
6 case of a taxable year beginning after 1973 and before
7 1975, or an amount equal to the contribution and
8 benefit base (as determined under section 230) which
9 is effective for the calendar year in the case of any
10 taxable year beginning in any calendar year after
11 1974, each quarter any part of which falls in such
12 year shall (subject to clauses (i) and (v)) be a
13 quarter of coverage;

14 " (iv) if an individual is paid wages for agricultural
15 labor in a calendar year after 1954 and before 1978,
16 then, subject to clauses (i) and (v), (I) the last quar-
17 ter of such year which can be but is not otherwise a
18 quarter of coverage shall be a quarter of coverage if such
19 wages equal or exceed \$100 but are less than \$200;
20 (II) the last two quarters of such year which can be
21 but are not otherwise quarters of coverage shall be
22 quarters of coverage if such wages equal or exceed \$200
23 but are less than \$300; (III) the last three quarters of
24 such year which can be but are not otherwise quarters
25 of coverage shall be quarters of coverage if such wages

1 equal or exceed \$300 but are less than \$400; and (IV)
2 each quarter of such year which is not otherwise a quar-
3 ter of coverage shall be a quarter of coverage if such
4 wages are \$400 or more;

5 “(v) no quarter shall be counted as a quarter of
6 coverage prior to the beginning of such quarter;

7 “(vi) not more than one quarter of coverage may
8 be credited to a calendar quarter; and

9 “(vii) no more than four quarters of coverage may
10 be credited to any calendar year after 1977.

11 If in the case of an individual who has attained age 62 or
12 died or is under a disability and who has been paid wages
13 for agricultural labor in a calendar year after 1954 and
14 before 1978, the requirements for insured status in subsec-
15 tion (a) or (b) of section 214, the requirements for entitle-
16 ment to a computation or recomputation of his primary
17 insurance amount, or the requirements of paragraph (3)
18 of section 216 (i) are not met after assignment of quarters
19 of coverage to quarters in such year as provided in clause
20 (iv) of the preceding sentence, but would be met if such
21 quarters of coverage were assigned to different quarters in
22 such year, then such quarters of coverage shall instead be
23 assigned, for purposes only of determining compliance with
24 such requirements, to such different quarters. If, in the case
25 of an individual who did not die prior to January 1, 1955,

1 and who attained age 62 (if a woman) or age 65 (if a man)
2 or died before July 1, 1957, the requirements for insured
3 status in section 214(a) (3) are not met because of his
4 having too few quarters of coverage but would be met if his
5 quarters of coverage in the first calendar year in which he
6 had any covered employment had been determined on the
7 basis of the period during which wages were earned rather
8 than on the basis of the period during which wages were paid
9 (any such wages paid that are reallocated on an earned basis
10 shall not be used in determining quarters of coverage for sub-
11 sequent calendar years), then upon application filed by the
12 individual or his survivors and satisfactory proof of his record
13 of wages earned being furnished by such individual or his
14 survivors, the quarters of coverage in such calendar year may
15 be determined on the basis of the periods during which wages
16 were earned.”.

17 Effective Date

18 (d) The amendments made by this section shall be
19 effective January 1, 1978.

20 ADJUSTMENT IN AMOUNT REQUIRED FOR A QUARTER OF
21 COVERAGE

22 SEC. 102. (a) Section 213(a) (2) (A) (ii) of the
23 Social Security Act, as amended by section 101(c) of this
24 Act, is amended by striking out “\$250” and inserting in

1 lieu thereof "the amount required for a quarter of coverage
2 in that calendar year (as determined under subsection
3 (d))".

4 (b) Section 213 of the Social Security Act is further
5 amended by adding at the end thereof the following new
6 subsection:

7 "Amount Required for a Quarter of Coverage

8 "(d) (1) The amount of wages paid and self-employ-
9 ment income credited to an individual required for a
10 quarter of coverage in that year under subsection (a) (2)
11 (A) (ii) shall be \$250 in calendar year 1978 and the
12 amount determined under paragraph (2) of this subsection
13 for years after 1978.

14 "(2) The Secretary shall, on or before November 1 of
15 1978 and of every year thereafter, determine and publish
16 in the Federal Register the amount of wages paid and self-
17 employment income credited to an individual required for a
18 quarter of coverage in the succeeding calendar year. The
19 amount required for a quarter of coverage shall be the larger
20 of—

21 "(A) the amount in effect in the calendar year in
22 which the determination under this subsection is made,
23 or

24 "(B) the product of the amount prescribed in para-
25 graph (1) which is required for a quarter of coverage

1 in 1978 and the ratio of the average of the total wages
 2 (as defined in regulations of the Secretary) reported to
 3 the Secretary of the Treasury or his delegate for the
 4 calendar year before the year in which the determination
 5 under this paragraph is made to the average of the total
 6 wages (as defined in regulations of the Secretary) re-
 7 ported to the Secretary of the Treasury or his delegate
 8 for 1976,

9 with such product, if not a multiple of \$10, being rounded
 10 to the next higher multiple of \$10 where such amount is a
 11 multiple of \$5 but not of \$10 and to the nearest multiple of
 12 \$10 in any other case.”.

13 Effective Date

14 (c) The amendments made by this section shall be effec-
 15 tive January 1, 1978.

16 TECHNICAL AND CONFORMING AMENDMENTS

17 Modification of Wage Data Used in Adjusting Retirement

18 Test Exempt Amount

19 SEC. 103. (a) (1) Section 203 (f) (8) (B) (i) of the
 20 Social Security Act is amended by deleting “was” wherever
 21 it appears and inserting instead “is”.

22 (2) Section 203 (f) (8) (B) (ii) of that Act is amended
 23 to read as follows:

24 “(ii) the product of the exempt amount de-
 25 scribed in clause (i) and the ratio of (I) the aver-

1 age of the total wages (as defined in regulations of
2 the Secretary) reported to the Secretary of the
3 Treasury or his delegate for the calendar year be-
4 fore the calendar year in which the determination
5 under subparagraph (A) is made to (II) the
6 average of the total wages (as defined in regu-
7 lations of the Secretary) reported to the Secre-
8 tary of the Treasury or his delegate for the calendar
9 year before the most recent calendar year in which
10 an increase in the exempt amount was enacted or a
11 determination resulting in such an increase was
12 made under subparagraph (A), with such product,
13 if not a multiple of \$10, being rounded to the next
14 higher multiple of \$10 where such product is a
15 multiple of \$5 but not of \$10 and to the nearest
16 multiple of \$10 in any other case.”.

17 (3) The amendments made by this subsection shall
18 be effective beginning January 1, 1979.

19 Amendments of Certain Requirements Applicable to Volun-
20 tary Agreements for the Coverage of State and Local
21 Employees

22 (b) (1) The first sentence of section 218 (c) (8) of
23 the Social Security Act is amended by deleting “quarter”
24 wherever it appears and inserting in lieu thereof “year”, and
25 by deleting “\$50” and inserting in lieu thereof “\$100”.

1 (2) Section 218 (g) (1) of that Act is amended by
2 striking out "quarter" and inserting in lieu thereof "year".

3 (3) Section 218 (q) (4) (B) of that Act is amended
4 by striking out "any calendar quarters" and inserting in lieu
5 thereof "a calendar year", and by striking out "such calendar
6 quarters" and inserting in lieu thereof "such calendar year".

7 (4) Section 218 (q) (6) (B) of that Act is amended by
8 striking out "calendar quarters designated by the State in
9 such wage reports as the" and inserting in lieu thereof
10 "period or periods designated by the State in such wage
11 reports as the period or".

12 (5) Section 218 (r) (1) of that Act is amended by—

13 (A) striking out "quarter" in the matter before
14 clause (A) and inserting in lieu thereof "year",

15 (B) striking out "in which occurred the calendar
16 quarter" in clause (A), and

17 (C) striking out "quarter" in clause (B) and
18 inserting in lieu thereof "year".

19 (6) (A) The amendments made by paragraphs (1),
20 (3), (4), and (5) of this subsection shall be effective
21 with respect to remuneration paid after December 31, 1977.

22 (B) The amendment made by paragraph (2) shall
23 be effective with respect to notices submitted by the States
24 to the Secretary after the date of enactment of this Act.

25 Modification of Wage Data Used in Recomputation of

1 Disability Benefits on Account of Receipt of Work-
2 men's Compensation

3 (c) (1) Effective with estimations made for calendar
4 years beginning after December 31, 1977, section 224
5 (a) of the Social Security Act is amended by deleting the
6 last sentence thereof.

7 (2) Effective January 1, 1979, section 224 (f) (2)
8 of that Act is amended to read as follows:

9 “(2) In making the redetermination required by para-
10 graph (1), the individual's average current earnings (as
11 defined in subsection (a) shall be deemed to be the prod-
12 uct of—

13 “(A) his average current earnings as initially
14 determined under subsection (a) ;

15 “(B) the ratio of (i) the average of the total wages
16 (as defined in regulations of the Secretary) reported
17 to the Secretary of the Treasury or his delegate for the
18 calendar year before the year in which such redetermi-
19 nation is made to (ii) the average of the total wages
20 (as defined in regulations of the Secretary) reported to
21 the Secretary of the Treasury or his delegate for calendar
22 year 1977 or, if later, the calendar year before the year
23 in which the reduction was first computed (but not
24 counting any reduction made in benefits for a previous
25 period of disability) ; and

1 “(C) in any case in which the reduction was first
2 computed before 1978 the ratio of (i) the average of
3 the taxable wages reported to the Secretary for the
4 first calendar quarter of 1977 to (ii) the average of the
5 taxable wages reported to the Secretary for the first
6 calendar quarter of the calendar year before the year in
7 which the reduction was first computed (but not count-
8 ing any reduction made in benefits for a previous period
9 of disability).

10 Any amount determined under this paragraph which is not
11 a multiple of \$1 shall be reduced to the next lower multiple
12 of \$1.”.

13 Amendment of Provisions for Determining Deemed Wages
14 in Case of Members of the Uniformed Services

15 (d) Effective January 1, 1978, section 229(a) of the
16 Social Security Act is amended by—

17 (1) striking out “shall be deemed to have been
18 paid, in each calendar quarter occurring after 1956 in
19 which he” and inserting in lieu thereof “, if he”, and

20 (2) striking out “wages (in addition to the wages
21 actually paid to him for such service) of \$300.” at the
22 end thereof and inserting in lieu thereof the following:
23 “shall be deemed to have been paid—

24 “(1) in each calendar quarter occurring after 1956

1 and before 1978 in which he was paid such wages, addi-
2 tional wages of \$300, and

3 “(2) in each calendar year occurring after 1977
4 in which he was paid such wages, additional wages of
5 \$100 for each \$300 of such wages, up to a maximum
6 of \$1,200 of additional wages for any calendar year.”.

7 Modification of Wage Data Used in Adjusting

8 Contribution and Benefit Base

9 (e) (1) Section 230 (b) of the Social Security Act is
10 amended by deleting the last sentence in the matter following
11 paragraph (2).

12 (2) Section 230 (b) (1) of that Act is amended to read
13 as follows:

14 “(1) the contribution and benefit base which is in
15 effect with respect to remuneration paid in (and taxable
16 years beginning in) the calendar year in which the
17 determination under subsection (a) is made, and”.

18 (3) Section 230 (b) (2) of that Act is amended to
19 read as follows:

20 “(2) the ratio of (A) the average of the total
21 wages (as defined in regulations of the Secretary) re-
22 ported to the Secretary of the Treasury or his delegate
23 for the calendar year before the calendar year in which
24 the determination under subsection (a) is made to
25 (B) the average of the total wages (as defined in

1 regulations of the Secretary) reported to the Secretary
2 of the Treasury or his delegate for the calendar year
3 before the most recent calendar year in which an
4 increase in the contribution and benefit base was
5 enacted or a determination resulting in such an increase
6 was made under subsection (a),”.

7 (4) The amendments made by this subsection shall
8 be effective beginning January 1, 1979.

9 Miscellaneous Technical and Conforming Amendments

10 (f) (1) Section 202 (u) (1) (C) of the Social Secu-
11 rity Act is amended by striking out “quarter” wherever
12 it appears and inserting in lieu thereof “year”.

13 (2) (A) Section 205 (c) (1) of that Act is amended by
14 striking out “(as defined in section 211 (e))”.

15 (B) Section 205 (c) (1) of that Act is further amended
16 by inserting at the end thereof the following new subpara-
17 graph:

18 “(D) The term ‘period’ when used with respect to
19 self-employment income means a taxable year and when
20 used with respect to wages means—

21 “(i) a quarter if wages were reported or should
22 have been reported on a quarterly basis (I) on tax
23 returns filed with the Secretary of the Treasury or
24 his delegate under section 6011 of the Internal Rev-
25 enue Code of 1954 or regulations thereunder, or

1 (II) on reports filed by a State under section 218
2 (e) or regulations thereunder.

3 “(ii) a year if wages were reported or should
4 have been reported on a yearly basis on such tax re-
5 turns or reports, or

6 “(iii) the half year beginning January 1 or
7 July 1 in the case of wages which were reported or
8 should have been reported for calendar year 1937.”.

9 (C) Section 205 (o) of that Act is amended by insert-
10 ing “before 1978” after “calendar year”.

11 (3) (A) The amendment made by paragraph (1) of
12 this subsection shall be effective with respect to convictions
13 after December 31, 1977.

14 (B) The amendments made by paragraph (2) of this
15 subsection shall be effective January 1, 1978.

16 **DEFINITION**

17 **SEC. 104.** As used in this title and the amendments to
18 the Social Security Act made by this title, the term “Sec-
19 retary” means, unless the context otherwise requires, the
20 Secretary of Health, Education, and Welfare.

21 **TITLE II—AMENDMENTS TO THE INTERNAL**
22 **REVENUE CODE OF 1954, AS AMENDED**

23 **DEDUCTION OF TAX FROM WAGES**

24 **SEC. 201.** (a) Section 3102 (a) of the Internal Reve-
25 nue Code of 1954 is amended by striking out “or (C) or
26 (10)” and by inserting after “is less than \$50;” the fol-

1 lowing: "and an employer who in any calendar year pays
2 to an employee cash remuneration to which paragraph (7)
3 (C) or (10) of section 3121 (a) is applicable may deduct
4 an amount equivalent to such tax from any such payment of
5 remuneration, even though at the time of payment the total
6 amount of such remuneration paid to the employee by the
7 employer in the calendar year is less than \$100;".

8 (b) (1) Paragraphs (1) and (2) of section 3102 (c)
9 of such Code are each amended by striking out "quarter"
10 wherever it appears and by inserting in lieu thereof "year".

11 (2) Paragraph (3) of section 3102 (c) of such Code
12 is amended—

13 (A) by striking out "quarter of the" in subpara-
14 graph (A); and

15 (B) by striking out "quarter" wherever it appears
16 in subparagraphs (B) and (C) and inserting in lieu
17 thereof "year".

18 (c) The amendments made by this section shall apply
19 with respect to remuneration paid and to tips received after
20 December 31, 1977.

21 TECHNICAL AND CONFORMING AMENDMENTS

22 SEC. 202. (a) Sections 3121 (a) (7) (C) and 3121
23 (a) (10) of the Internal Revenue Code of 1954 are each
24 amended by striking out "quarter" wherever it appears and
25 inserting in lieu thereof "year", and by striking out "\$50"
26 and inserting in lieu thereof "\$100".

1 (b) Section 3121 (a) of such Code is amended by in-
2 serting after paragraph (15) the following new paragraph:

3 “(16) remuneration paid by an organization
4 exempt from income tax under section 501 (a) (other
5 than an organization described in section 401 (a)) or
6 under section 521 in any calendar year to an employee
7 for service rendered in the employ of such organization,
8 if the remuneration paid in such year by the organiza-
9 tion to the employee for such service is less than \$100.”.

10 (c) Section 3121 (b) (10) of such Code is amended by
11 striking out subparagraph (A), redesignating subparagraph
12 (B) as paragraph (10), and redesignating clauses (i) and
13 (ii) as subparagraphs (A) and (B), respectively.

14 (d) Sections 3121 (b) (17) (A) and 3121 (g) (4) (B)
15 of such Code are each amended by striking out “quarter” and
16 inserting in lieu thereof “year”.

17 (e) The amendments made by this section shall be
18 effective January 1, 1978.

19 TITLE III—CONFORMING AMENDMENT TO THE
20 RAILROAD RETIREMENT ACT OF 1974

21 COMPUTATION OF EMPLOYEE ANNUITIES

22 SEC. 301. (a) The last sentence of section 3 (f) (1) of
23 the Railroad Retirement Act of 1974 is amended by—

24 (1) inserting “paid before 1978” after “in the
25 case of wages”, and

1 (2) inserting “and in the case of wages paid after
2 1977” before the period at the end thereof.

3 (b) The amendments made by this section shall be
4 effective January 1, 1978.

95TH CONGRESS
1ST SESSION

H. R. 8057

A BILL

To amend title II of the Social Security Act, the Internal Revenue Code of 1954, as amended, and the Railroad Retirement Act of 1974 to permit combined reporting of wages by employers for old-age, survivors, disability, and health insurance and income tax withholding purposes on an annual basis, and for other purposes.

By Mr. BURKE of Massachusetts

JUNE 28, 1977

Referred to the Committee on Ways and Means

95th Congress }
1st Session }

COMMITTEE PRINT

Staff Data and Materials Relating to Social Security Financing

Prepared by the Staff for the Use of the
COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*



JUNE 1977

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1977

89-958

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 - Price 55 cents
Stock No. 052-070-04100-5

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(II)

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**I. THE SOCIAL SECURITY PROGRAM AND ITS
FINANCING**

I. THE SOCIAL SECURITY PROGRAM AND ITS FINANCING

The words "social security" are used in different senses to describe a variety of programs. The most common understanding of the term, however, is as an identification for those Federal programs which provide retirement, survivors, and disability insurance benefits financed from an earmarked payroll tax which is referred to as the social security tax. More than 33 million people are currently receiving social security benefits. The average monthly benefits are \$234 for retired workers alone, \$262 for disabled workers, and \$223 for aged widows.

About 108 million workers, and their employers, will pay social security taxes this year. The social security payroll tax paid by employers, employees, and self-employed persons is a composite of three separate tax rates supporting: (1) the old-age and survivors insurance program (OASI); (2) the disability insurance program (DI); and the hospital insurance program (HI or part A of medicare). (Part B of medicare or supplementary medical insurance is also considered a "social security program" but is financed from premiums and general funds rather than from payroll taxes.)

Each of the three components of the overall social security tax—OASI, DI, and HI—has a separate trust fund which receives all of the taxes generated by its portion of the overall tax and which can use those funds only to operate its own program. For convenience, the two cash benefit programs OASI and DI are frequently considered together. In this document, except where otherwise specified, references to social security financing will include the OASI and DI systems combined and will exclude the HI system.

How the Program is Financed

Tax rates.—The social security program is financed by a tax on earnings paid by employees, employers and the self-employed. The schedule of taxes in present law is shown in the following table:

TABLE 1.—SOCIAL SECURITY TAX RATES

[In percent]

Year	Employee-employer, each			Self-employment		
	Cash benefits	Hospital insurance	Total	Cash benefits	Hospital insurance	Total
1977.....	4.95	0.9	5.85	7.0	0.9	7.9
1978-80..	4.95	1.1	6.05	7.0	1.1	8.1
1981-85..	4.95	1.35	6.30	7.0	1.35	8.35
1986-						
2010....	4.95	1.5	6.45	7.0	1.5	8.5
2011 and after....	5.95	1.5	7.45	7.0	1.5	8.5

The tax base.—For 1977 the tax applies to the first \$16,500 of an individual's earnings and for 1978 the amount will rise to \$17,700. In future years the amount of earnings taxed will rise depending on the rise in average earnings from year to year. The estimates in the 1977 report of the Trustees indicate that the taxable amount will rise as follows:

TABLE 2.—SOCIAL SECURITY TAX BASE

Year:	Taxable earnings
1979.....	\$18,900
1980.....	20,400
1981.....	21,900

The 1977 reports of the Board of Trustees show that the OASI and DI trust funds will be depleted in the very near future unless additional financing is provided through changes in the law and that the annual deficits will grow each year in the future.

Long-term deficit.—Over the 75-year period covered by the long-term actuarial cost estimates, the OASDI taxes provided under present law are estimated to provide income averaging 10.99 percent of taxable payroll while the benefits authorized are estimated to have an average cost of 19.19 percent of taxable payroll. The deficit of 8.20 percent of taxable payroll is about \$66 billion per year at present payroll levels. (Effective taxable payroll is estimated at about \$803 billion for this year.)

Short-term deficit.—In the short-term, the estimates indicate that the OASI program will run out of funds about 1983 and that the DI program will exhaust its reserves early in 1979. A more detailed discussion of the deficits appears in the material which follows.

Changes over time.—The situation depicted in the 1977 report of the Trustees is in marked contrast to the situation shown by the estimates made in 1972 when the last major changes in that program were adopted. The actuarial estimates made at that time showed that the program was in exact actuarial balance, that is long-term income equaled long-term outgo. The steadily deteriorating conditions which have existed from that time result in the short-run from the interaction of the economy on benefit payments and income. In the long-run, the effect of short-term conditions on long-term projections combined with the effects of changes in economic and demographic assumptions, have resulted in increases in the estimated cost of the program in relation to the anticipated income.

The Social Security Benefit Structure

The primary insurance amount.—Under the present law, cash benefits for an individual are based on a Primary Insurance Amount (PIA) which is arrived at by determining a worker's average monthly earnings (AME). AME is, broadly speaking, total earnings (minus 5 years of lowest earnings) under social security divided by the number of months (minus 60) between 1950 (or attainment of age 22, if later) and the earliest of (1) attainment of age 62, (2) onset of disability, or (3) death. The PIA is determined from the AME by reference to a table which is included in the Social Security Act and which determines the payments to people on the rolls and those who become entitled to benefits. The tables in the law for May 1977 and for June 1977 (when

a 5.9 percent cost-of-living increase became effective) can be approximated by the following formulas:

TABLE 3.—SOCIAL SECURITY BENEFIT FORMULA—MAY 1977

	Benefit as percent of average monthly earnings
Formula:	
137.77 percent of first \$110 of average monthly earnings, but not less than \$107.90 . . . (at least)	137
\$151.55 plus 50.1 percent of average monthly earnings above \$110 and not more than \$400 . . .	137-74
\$296.84 plus 46.82 percent of average monthly earnings above \$400 and not more than \$550 . . .	74-67
\$367.07 plus 55.05 percent of average monthly earnings above \$550 and not more than \$650* . .	67-65
\$422.12 plus 30.61 percent of average monthly earnings above \$650 and not more than \$750 . . .	65-60
\$452.73 plus 25.51 percent of average monthly earnings above \$750 and not more than \$1,000 . .	60-52
\$516.51 plus 22.98 percent of average monthly earnings above \$1,000 and not more than \$1,175 .	52-47
\$556.73 plus 21.28 percent of average monthly earnings above \$1,175 and not more than \$1,275 .	47-45
\$578.00 plus 20 percent of average monthly earnings above \$1,275 and not more than \$1,375 . . .	45-43

*This is the last step in the formula used for men who retire at age 65 in 1977.

TABLE 4.—SOCIAL SECURITY BENEFIT FORMULA—
JUNE 1977

	Benefit as percent of average monthly earnings
Formula:	
145.9 percent of first \$110 of average monthly earnings, but not less than \$114.30 (at least)	146
\$160.49 plus 53.06 percent of average monthly earnings above \$110 and not more than \$400	146-79
\$314.36 plus 49.58 percent of average monthly earnings above \$400 and not more than \$550	79-71
\$388.73 plus 58.3 percent of average monthly earnings above \$550 and not more than \$650*	71-69
\$447.03 plus 32.42 percent of average monthly earnings above \$650 and not more than \$750	69-64
\$479.45 plus 27.02 percent of average monthly earnings above \$750 and not more than \$1,000	64-55
\$546.99 plus 24.34 percent of average monthly earnings above \$1,000 and not more than \$1,175	55-50
\$589.58 plus 22.54 percent of average monthly earnings above \$1,175 and not more than \$1,275 . .	50-48
\$612.12 plus 21.18 percent of average monthly earnings above \$1,275 and not more than \$1,375	48-46

*This is the last step in the formula used for men who retire at age 65 in 1977.

Automatic cost-of-living increases.—Existing law calls for automatic cost-of-living increases in benefits effective each June and for increases in the tax base each January (assuming that the Consumer Price Index rises by at least 3 percent). Each benefit increase is put into effect by a revision of the table in the law. Thus, each increase applies not only to people entitled to benefits for the month the increase is effective but also to everyone who will become entitled to benefits in the future. For example, because of the rise in the CPI between the first quarter of 1976 and the first quarter of 1977, benefits for June 1977 will be increased by 5.9 percent. As a result, each of the percentages in the benefit formula will be increased by 5.9 percent—the 137.77 percent factor becomes 145.9, the minimum PIA becomes \$114.30 and so on until the 20 percent factor becomes 21.18 percent. A further expansion of the table will take place the following January when the maximum amount of earnings taxable rises to \$17,700. This will cause a new last step to be added: \$633.30 plus 20 percent of average monthly earnings above \$1,375 and not more than \$1,475. Much of the estimated long-term deficit results from the fact that these modifications in the benefit formula apply to benefits which will be awarded in the future as well as to the benefits paid to people on the benefit rolls on the effective date.

Relationship between benefit formula and the deficit.—The automatic “cost-of-living” benefit increase mechanism incorporated into the social security program by the 1972 amendments which had been recommended as a way to make benefits inflation proof operates exactly as intended for persons on the benefit rolls. Once the initial benefit has been established, it is periodically increased by a percentage which restores its original purchasing power according to the official governmental index of purchasing power—the Consumer Price Index (CPI).

The “cost-of-living” adjustment mechanism, however, also increases the percentages in the formula for determining initial benefits in the future. Future benefits however, are based on earnings which rise, in part, as the result of increases in prices. Thus, wages which were increased to take account of rising prices are multiplied by a benefit formula which was also increased to take account of the same increase in prices.

For an example of how benefits are increased under present procedures, assume a program with a benefit equal to 50 percent of wages. In such a program wages of \$100 would produce a benefit of \$50. If wages and prices both rise by 10 percent, the individual who is on the benefit rolls will have his benefit increased to \$55 and the person who is still working will have his \$100 wage increased to \$110. If the benefit formula is left unchanged, both individuals would qualify for a \$55 benefit. But under present procedures the benefit formula is also increased to 55 percent and the person who will retire in the future with wages increased from \$100 to \$110 will get a benefit of \$60.50.

Under any reasonable projection of future economic conditions, benefit levels determined by the present-law mechanism will be much higher than what is necessary to simply adjust for inflation and will represent an ever-increasing percentage of the new retiree's wages in the year before he retires. For significant numbers of workers, the benefits payable just after retirement would approach—and in many cases exceed—their wage levels immediately before retirement.

Under this existing automatic increase mechanism, the annual costs of the program are estimated to grow from their present level of 11 percent of taxable wages to over 12 percent by 1990, about 14 percent by 2000, and 27 percent by 2050. If, however, the law were changed so that the automatic cost-of-living adjustment mechanism were used only to keep benefits inflation-proof after a person comes on the rolls and not to provide a constantly increasing level of initial benefits, the situation would be changed drastically. In place of an increasingly costly program, the costs of the program as a percent of payroll would actually decline. The average long-range costs of the program which are now 19.2 percent of payroll would be reduced to 7.2 percent of payroll—or 3.8 percent less than the revenues which present tax schedules will generate.

Thus, “decoupling” the automatic cost-of-living mechanism from the formula for determining initial benefits so that it operates only to increase benefits after an individual comes on the rolls would solve the long-range deficit entirely and would, in fact, leave a very substantial long-range surplus. However, it would then be necessary to consider the adequacy of the initial benefits determined under the present-law formula in the absence of future automatic increases, and to determine what other changes, if any, are appropriate.

Measures of benefit adequacy.—There is no accepted measure of what constitutes an adequate level of social security benefits. Whether social security benefits are adequate or not is a value judgment. There is, however, general agreement that once a benefit has been awarded the purchasing power of the initial benefit should be maintained. A convenient benchmark for measuring the adequacy of initial benefits in the absence of any absolute standard is the currently prevailing level of benefits. Measured against this benchmark, a proposed new benefit formula will either increase, decrease, or maintain the level of adequacy now existing for persons retiring at the present time. Even so, two different types of “adequacy” can be described. In terms of purchasing power, present levels of adequacy are maintained if future benefits are sufficiently higher than today’s benefits for similar workers to offset the impact of inflation.

An alternative measure of adequacy is the percentage of pre-retirement earnings which the initial benefit represents—the “replacement rate.” Since wages tend to rise faster than prices over the long-run, a new benefit formula which maintains adequacy in terms of purchasing power may still fall short of maintaining adequacy in terms of replacement rates.

It should be emphasized that there is no method of determining what “the replacement rate” is under the existing system or any proposed modifications of it. There are in fact many different replacement rates depending on the individual’s level and pattern of earnings and on what base is chosen to measure replacement against. Similarly, there is no single “level of purchasing power” for initial social security benefits today but a wide range of purchasing power depending upon what each worker qualifies for on the basis of his past work history. For convenience, the actuaries of the Administration compute certain replacement rates and benefit levels for theoretical workers at low, average, and maximum earnings, assuming them to have steadily rising wage levels over their working lifetime, and applying the result against their assumed earnings in the year before retirement. A study

done by the Hsiao panel for the Congressional Research Service demonstrates that these theoretical models do not bear any great resemblance to typical wage patterns of actual workers.

The variety of different replacement rates possible depending upon such factors as work history and family composition is illustrated by table 5 below. This table shows the replacement ratios for workers who have average monthly wages at various levels. The examples shown are based on retired workers whose final earnings are 66 percent higher than their average monthly earnings and disabled workers whose final earnings are 25 percent higher than their average monthly earnings.

TABLE 5.—SOCIAL SECURITY REPLACEMENT RATIOS, AGED RETIRED WORKER, YOUNG DISABLED WORKER, AND THEIR FAMILIES, JANUARY 1977 BENEFIT RATES

[In percent]

Average monthly earnings (AME)	Replacement ratio—Highest earnings equal to:				
	1½ AME—Retired worker		1.25 (AME)—Young disabled worker		
	Alone	With wife	Alone	With wife	Family maximum
Up to \$110, at least.....	83	127	110	165	164
\$400.....	44	67	59	89	107
\$550.....	40	60	53	89	97
\$650 ¹	39	58	52	78	91
\$750.....	36	54	48	72	85
\$1,000.....	31	46	41	63	72
\$1,175.....	28	43	38	57	66
\$1,275.....	27	41	36	54	63

¹ Retirement benefits based on earnings in excess of \$650 are not ordinarily payable until after 1977.

The choice of what change, if any, to make in the way in which benefits are computed under the social security system will depend on a judgment as to the extent to which it is desirable to maintain or increase adequacy under the system as measured in terms of purchasing power and replacement rates and as to how much of the desired adequacy can be accommodated within the funding that can be made available. A number of possibilities exist. Some of the more widely discussed proposals are described elsewhere in this print. The following table shows the growth in benefits and replacement rates for a median earner which is projected under present law using the intermediate assumptions in the 1977 Trustees report:

TABLE 6.—PROJECTED EARNINGS AND BENEFITS FOR INDIVIDUALS WITH MEDIAN EARNINGS RETIRING AT AGE 65 IN SELECTED YEARS 1977-2050

Year of attainment of age 65:	Taxable earnings in prior year	Annual benefit amount ¹	Replacement ratio ²
1977.....	\$8,858	\$4,078	0.460
1978.....	9,602	4,483	.467
1979.....	10,380	4,842	.466
1980.....	11,189	5,221	.467
1981.....	11,984	5,620	.469
1982.....	12,751	6,032	.473
1983.....	13,516	6,498	.481
1984.....	14,293	6,957	.487
1985.....	15,115	7,478	.495
1990.....	19,990	9,981	.499
1995.....	26,437	13,385	.506
2000.....	34,963	18,626	.533
2005.....	46,240	25,710	.556
2010.....	61,153	35,326	.578
2015.....	80,876	48,291	.597
2020.....	106,960	65,753	.615
2025.....	141,456	89,175	.630
2030.....	187,079	120,653	.645
2035.....	247,415	162,870	.658
2040.....	327,211	219,375	.670
2045.....	432,743	294,960	.682
2050.....	572,310	395,946	.692

¹ Total benefits paid during year.

² Replacement ratio represents the ratio of annual benefit amount to taxable earnings in the year just prior to retirement.

Note: The long-range economic assumptions underlying this table are those used as the "intermediate" (alternative II) assumptions for the 1977 Trustees report: with ultimate 4 percent annual CPI growth; 5.75 percent annual wage growth. The annual benefit amount of \$395,946 in the year 2050 would be approximately \$21,390 in constant (1977) dollars.

II. FINANCIAL STATUS OF THE PROGRAM

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The Deficit

The 1977 report of the Trustees of the social security trust funds showed for the fourth consecutive year that the social security cash benefits programs—old-age, survivors and disability insurance or OASDI—were inadequately financed in both the near-term and the long-range future. In addition the hospital insurance program (HI) was described as being adequately financed over the next 5 years but with a tax rate schedule which would not finance the program over the long-run.

Over the 25-year period covered by the cost estimates the HI program has an average deficit of 1.16 percent of taxable payroll compared to the 0.64 percent deficit estimated in 1976.

Two deficits.—There are really two cash-benefits deficits. A short-term deficit caused by recent economic conditions and a long-term deficit reflecting changes in economic conditions and the assumptions used for the actuarial estimates. The estimates in the 1977 reports of the Trustees were that the cash benefits program could be expected to run out of funds in the early 1980's (with the disability program being depleted early in 1979 if some action to provide additional funds is not taken). In the long-run (the 75-year period ending in 2051), the average deficit for the cash benefits programs was estimated at 8.2 percent of taxable payroll and a 25-year deficit of 1.16 percent was projected for the medicare program. This is equivalent to annual amounts of \$66 billion if based on the 1977 taxable payroll. If the 25-year deficit of 1.16 percent projected for the medicare program, which is equivalent to \$9.3 billion per year were added, the total social security deficit would be equal to \$75.3 billion a year, based on the 1977 taxable payroll.

These deficits represent the magnitude of the financing problems facing the social security programs when averaged over the entire valuation period. The deficit at present and in the years immediately ahead is much smaller, but the ultimate deficit is much larger. The following table shows the deficits at various points in the future.

TABLE 7.—DEFICITS OF THE SOCIAL SECURITY CASH BENEFITS PROGRAM (OASDI)

	Percent of taxable payroll	Dollar equivalent based on 1977 payroll levels (billions)
1977.....	1.01	\$8
2000.....	4.01	32
2025.....	12.40	100
2050.....	15.03	121
Yearly average (1977-2001).....	2.34	19
Yearly average (2002-2026).....	7.67	62
Yearly average (2027-2051).....	14.57	117
75-yr average (1977-2051).....	8.20	66

In other words, if the benefit structure of the cash benefits program were left unchanged, additional funding would have to be provided to meet benefit costs over and above current revenues. The amount of additional funding would be \$8 billion in 1977 increasing each year to \$121 billion (in constant 1977 dollars) by 2050. The alternative to providing this much additional funding is to change the structure of the program so that it pays out less in benefits.

Estimates not predictions.—In evaluating estimates of the future cost of the social security program, one should keep in mind that while the estimates are useful as indicators of future trends, they should not be taken as accurate predictions of future events. The estimates depend on assumptions (predictions, in a sense) of future economic, demographic and sociological trends. To the degree that the estimates are validated by future experience they will be accurate, while they will be inaccurate to the degree that they depart from future trends. In projecting the cost of the program, the Trustees actually adopt a range of assumptions within which it appears likely that future experience will fall. Under the 1977 Trustees assumptions, the range of the deficit is estimated to be from 3.88 percent of taxable payroll under an optimistic set of assumptions to 16.09 percent under a pessimistic set of assumptions. Generally, the intermediate set of assumptions which yield an 8.20 percent deficit are used for convenience. See appendix A for additional discussion of the actuarial assumptions.

The Short-Term Deficit

Background.—Early in 1973, it was obvious that the cost of living was increasing at a rapid rate. Congress therefore provided (P.L. 93-66) a 5.9 percent increase in benefits which would have been payable for the months June through December 1974 as an advance payment of the January 1975 automatic cost-of-living increase. Inflation continued at a very high rate and, before this increase went into effect, Congress

substituted (P.L. 93-233) a two-step 11 percent increase for the 5.9 percent increase previously authorized. The first 7 percent rise in benefits was effective for March 1974 with the remainder being effective for June. The changes in the financing made at that time are the most recent changes made by Congress.

At the time of the December 1973 legislation, the Social Security Administration informed Congress that the income to the cash benefits program (taking into account the effect of the changes made by P.L. 93-233) would be more than outgo for the period covered by the short-term estimates. The balance in the two trust funds (old-age and survivors insurance and disability insurance) which was about \$42.8 billion at the end of 1972 was estimated to rise to \$53.6 billion by the end of 1978. The following table compares the 1973 estimates with the actual experience through 1976 and the most recent estimates for the years 1977-1978.

The 1973 estimates were based on the assumption that there would be a gradual rise in employment and wages with an increase in average wages about 6.2 percent a year. The CPI was assumed to rise at an average rate of 3.3 percent a year from the second quarter of 1974 to the first quarter of 1977. However, actual economic experience proved to be quite different from the 1973 assumptions.

TABLE 8.—INCOME AND EXPENDITURES OF THE SOCIAL SECURITY CASH BENEFITS TRUST FUNDS AS ESTIMATED IN 1973 AND IN 1977

[In billions of dollars]

	1973 estimate				1977 estimate			
	Income	Expenditures	Changes in funds	Funds at end of year	Income	Expenditures	Changes in funds	Funds at end of year
Year:								
1973.....	54.8	53.4	1.4	44.2	¹ 54.8	¹ 53.1	¹ 1.6	¹ 44.4
1974.....	63.1	61.2	1.9	46.1	¹ 62.1	¹ 60.6	¹ 1.5	¹ 45.9
1975.....	68.5	67.6	.8	46.9	¹ 67.6	¹ 69.2	¹ -1.5	¹ 44.3
1976.....	74.8	73.1	1.7	48.6	¹ 75.0	¹ 78.2	¹ -3.2	¹ 41.1
1977.....	80.9	77.8	3.1	51.7	82.1	87.7	-5.6	35.5
1978.....	85.5	83.7	1.9	53.6	90.7	97.5	-6.9	28.6

¹Actual rather than estimated amounts.

Note: Totals do not necessarily equal the sum of rounded components.

The CPI rose faster than anticipated. Under the 1973 assumptions, the automatic cost-of-living provisions would have caused benefits to rise at an average rate of 3 percent a year while the actual increases along with that assumed for 1978 average 6.4 percent, or 115 percent higher than the 1973 estimate. The automatic cost-of-living increases used for the 1973 and 1977 estimates are shown below:

TABLE 9.—COST-OF-LIVING INCREASES IN BENEFITS—1973 AND 1977 ESTIMATES

Year:	1973 estimate— percent	1977 estimate— percent
1975	3.1	8.0
1976	3.1	6.4
1977	¹ 0	5.9
1978	5.8	5.5

¹ The 1973 estimates projected that the CPI rise for 1976 to 1977 would be less than the 3% needed to trigger an automatic benefit increase.

Wage levels also rose faster than had been anticipated but not enough faster to offset the impact of the price rises. For 1973 the increase in average wages was 7.0 percent, for 1974 the increase was 6.9 percent, for 1975 it was again 6.9 percent, and for 1976 it was 7.4 percent. The estimates for the years 1977 and 1978 assume rises of 8.4 percent and 8.1 percent—an average of 7.4 percent, 20 percent higher than assumed in the 1973 estimates.

The 1977 Trustees report.—The 1977 report of the Trustees indicated that the cash-benefit programs would require relatively modest but growing amounts of additional funds in the immediate future and quite large amounts later on. The estimates, were based on 3 alternative sets of economic assumptions and projected the following changes as a result of the provisions of the law which call for automatic increases in benefits to take account of rises in the CPI and increases in the tax base to take account of rising wage levels.

TABLE 10 —PROJECTED INCREASES IN BENEFITS AND TAX BASE

Year	General benefit increase (percent) under alternative—			Tax base
	I	II	III	
1976	6.4	6.4	6.4	\$15,300
1977	5.9	5.9	5.9	16,500
1978	5.5	5.5	5.5	17,700
1979	4.8	5.2	6.9	18,900
1980	4.5	5.0	6.8	20,400
1981	3.6	4.2	5.2	¹ 21,900

¹ \$22,200 under alternative III.

The estimated 1976–1981 income and expenditures of the combined cash-benefits trust funds and of each separate fund under the three alternative assumptions are shown in the following tables:

TABLE 11.—ESTIMATED OPERATIONS OF THE OLD-AGE AND SURVIVORS INSURANCE AND DISABILITY INSURANCE TRUST FUNDS, COMBINED, DURING CALENDAR YEARS 1976-81 UNDER 3 ALTERNATIVE SETS OF ASSUMPTIONS

[Dollar amounts in billions]

Calendar year	Income	Dis- burse- ments	Net increase in funds	Funds at end of year	Funds at begin- ning of year as a percentage of disbursements during year
Alternative I:					
1976 ¹	\$75.0	\$78.2	-\$3.2	\$41.1	57
1977.....	82.1	87.7	-5.6	35.5	47
1978.....	90.7	97.5	-6.8	28.7	36
1979 ²	100.0	107.2	-7.3	21.4	27
1980 ²	109.3	117.2	-7.9	13.5	18
1981 ²	118.0	127.4	-9.4	4.1	11
Alternative II:					
1976 ¹	75.0	78.2	-3.2	41.1	57
1977.....	82.1	87.7	-5.6	35.5	47
1978.....	90.7	97.5	-6.9	28.6	36
1979 ²	99.5	107.4	-7.9	20.7	27
1980 ²	108.9	118.0	-9.1	11.6	18
1981 ²	117.4	128.9	-11.5	.1	9
Alternative III:					
1976 ¹	75.0	78.2	-3.2	41.1	57
1977.....	82.1	87.7	-5.6	35.5	47
1978.....	90.5	97.5	-7.0	28.5	36
1979 ²	98.2	108.4	-10.2	18.3	26
1980 ²	106.7	121.1	-14.3	3.9	15
1981 ²	115.7	134.1	-18.4	-14.5	3

¹ Figures for 1976 represent actual experience.

² Because the disability insurance trust fund is exhausted in 1979 under each alternative, and because none of the estimated income to one trust fund can be allocated to the other trust fund, under present law, the figures for 1979-81 are theoretical, representing arithmetical addition of figures shown in tables 14 and 15.

Note: Totals do not necessarily equal the sum of rounded components.

TABLE 12.—ESTIMATED OPERATIONS OF THE DISABILITY INSURANCE TRUST FUND DURING CALENDAR YEARS 1976-81 UNDER 3 ALTERNATIVE SETS OF ASSUMPTIONS

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of disbursements during year
Alternative I:					
1976 ¹	\$8.8	\$10.4	-\$1.6	\$5.7	71
1977.....	9.6	12.1	-2.5	3.3	48
1978.....	10.9	13.6	-2.8	.5	24
1979 ²	11.9	15.3	-3.5	-3.0	3
1980 ²	12.8	17.2	-4.4	-7.4	(³)
1981 ²	14.7	19.2	-4.5	-11.9	(³)
Alternative II:					
1976 ¹	8.8	10.4	-1.6	5.7	71
1977.....	9.6	12.1	-2.5	3.3	48
1978.....	10.8	13.6	-2.8	.5	24
1979 ²	11.8	15.4	-3.5	-3.1	3
1980 ²	12.7	17.4	-4.6	-7.7	(³)
1981 ²	14.6	19.5	-4.9	-12.5	(³)
Alternative III:					
1976 ¹	8.8	10.4	-1.6	5.7	71
1977.....	9.6	12.1	-2.5	3.3	48
1978.....	10.8	13.7	-2.8	.4	24
1979 ²	11.7	15.5	-3.9	-3.4	3
1980 ²	12.5	17.9	-5.4	-8.8	(³)
1981 ²	14.4	20.3	-6.0	-14.8	(³)

¹ Figures for 1976 represent actual experience.

² Figures for 1979-81 are theoretical because it is estimated that the disability insurance trust fund will be exhausted in 1979.

³ Fund exhausted in 1979.

Note: Totals do not necessarily equal the sum of rounded components.

TABLE 13.—ESTIMATED OPERATIONS OF THE OLD-AGE AND SURVIVORS INSURANCE TRUST FUND DURING CALENDAR YEARS 1976-81 UNDER 3 ALTERNATIVE SETS OF ASSUMPTIONS

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of disbursements during year
Alternative I:					
1976 ¹	\$66.3	\$67.9	-\$1.6	\$35.4	54
1977.....	72.5	75.7	-3.2	32.2	47
1978.....	79.8	83.9	-4.0	28.2	38
1979.....	88.1	91.9	-3.8	24.4	31
1980.....	96.5	100.0	-3.5	20.9	24
1981.....	103.3	108.2	-4.9	16.1	19
Alternative II:					
1976 ¹	66.3	67.9	-1.6	35.4	54
1977.....	72.5	75.7	-3.2	32.2	47
1978.....	79.8	83.9	-4.1	28.2	38
1979.....	87.7	92.1	-4.4	23.8	31
1980.....	96.1	100.6	-4.5	19.3	24
1981.....	102.8	109.4	-6.7	12.7	18
Alternative III:					
1976 ¹	66.3	67.9	-1.6	35.4	54
1977.....	72.5	75.7	-3.2	32.2	47
1978.....	79.7	83.9	-4.2	28.1	38
1979.....	86.5	92.9	-6.3	21.7	30
1980.....	94.3	103.2	-8.9	12.8	21
1981.....	101.3	113.8	-12.5	.3	11

¹ Figures for 1976 represent actual experience.

Note: Totals do not necessarily equal the sum of rounded components.

The Long-Term Deficit

Background.—The last time (1972) that major changes were made in the cash-benefits programs the actuaries estimated that long-term income would just equal long-term expenditures. All subsequent estimates have projected increasing deficits as shown in the following table:

TABLE 14.—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE TRUST FUNDS
LONG-RANGE ACTUARIAL BALANCE: 1971-77 ESTIMATES

[Percent of payroll]

Law in effect	Date of estimate ¹	Cost	Income	Long-range balance		
				OASI	DI	Total
1971 (level cost) ²	1972	10.16	10.21	+0.13	-0.08	+0.05
1971 (dynamic) ³	1972	8.96	10.29	+1.38	-.05	+1.33
1972 (Public Law 92-336)	1972	9.77	9.84	+0.09	-.02	+0.07
H.R. 1 (Public Law 92-603)	1972	10.63	10.63	-.01	+.01	.00
Do	1973 (trustees)	10.95	10.63	-.09	-.23	-.32
Do	October 1973	11.31	10.63	-.40	-.28	-.68
Do	November 1973	11.39	10.63	-.48	-.28	-.76
H.R. 11333 (Public Law 93-233)	do	11.39	10.88	-.43	-.08	-.51
Do	1974 (trustees)	13.89	10.91	-2.58	-.40	-2.98
Do	1975 (advisory council)					-3.50
Do	1975 (Senate panel)	16.90	10.90			-6.00
Do	1975 (trustees)	16.26	10.94	-3.88	-1.44	-5.32
Do	1976 (trustees)	18.93	10.97	-5.99	-1.97	-7.96
Do	1977 (trustees)	19.19	10.99	-6.06	-2.14	-8.20

¹ All of the estimates were made by the Social Security Administration Actuaries except for the 1975 Senate panel estimate (see, Report on Social Security Financing to the Committee on Finance, committee print dated February 1975).

² The level-cost estimates which were used prior to 1972 assumed no future changes in the law, in benefit levels, or in wage levels.

³ The dynamic estimating procedures were adopted to demonstrate the effect of automatic increases in benefits and in the tax base. They assume no changes in the law but do assume increases in benefit levels and in wage levels. Dynamic procedures were the basis for all subsequent estimates.

A number of people have noted that the decline in the actuarial status of the trust funds began with the adoption of the automatic cost-of-living increases in benefits. While it is true that a substantial part of the long-term deficit is caused by the cost-of-living increases, this is because the assumptions made in 1972 as to the relationship between rises in wage levels and increases in the CPI are now considered excessively optimistic. In addition, the 1972 assumptions about demographic factors have also proven excessively optimistic. As a result, the increases in wage levels have not paid (as was assumed in 1972) for the cost-of-living increases in benefits.

In this connection it seems worth noting that the only time the Finance Committee reported a cost-of-living provision (in connection with H.R. 17750, 91st Congress) it said in its 1970 report that it wished "to make clear its intention that the full cost (as estimated at the time the increase is promulgated) of each automatic increase is to be financed by additional taxes imposed at the same time that benefits are increased." While this principle was incorporated in the Senate-passed bill, it was not included in the legislation subsequently enacted in 1972. The earlier bill passed the Senate but no conference was held to compromise differences between the House-passed and Senate-passed bills. Subsequently, cost-of-living provisions were enacted as a Senate floor amendment to a debt ceiling bill, Public Law 92-336.

Changing assumptions affecting the long-term deficit.—The long-term deficit comes about because the earlier cost estimates—and as a result, the financing—were based on demographic and economic assumptions which are now considered unrealistic.

The 1973 estimates of the cost of the cash-benefits programs were based on the assumption that the ultimate fertility rate would be 2.3 or 2.8 children per woman. By 1973, it was probably more reasonable to assume that the ultimate rate should be one which would approach zero population growth (about 2.1 children per woman). Subsequent cost estimates were based on lesser fertility rates. The initial reduction came in 1974 when a rate of 2.1 was assumed and a further reduction was made in 1976 where an ultimate fertility rate of 1.9 was used for the intermediate 1976 assumptions.

As for the economic assumptions made for 1973, the most significant were that after 1977 average earnings would increase at an annual rate of 5 percent while the CPI would increase at 2¼ percent a year. Even at the end of 1973 this seemed a dim prospect, and the 1974 estimates were based on the assumption that the annual rise in the CPI would average 3 percent a year. The effect of this change, however, was offset to some degree by eliminating an 0.375 percent additional cost which had been included as a "safety factor" for years prior to 2011 in the 1973 estimates. By 1976, the assumptions had been changed to a 5.75 percent annual rise in average wages and a 4 percent annual rise in the CPI.

The long-range economic assumptions used for the 1977 estimates are basically those used for the 1976 estimates. Significant changes though, were made in the mortality and fertility assumptions. Mortality was assumed to improve, thus raising the cost of the program by 0.64 percent of taxable payroll. This increase in cost was offset by assuming that the fertility rate would rise to 2.1 (the approximate rate

at which the population would neither grow nor decline). The net result of the two changes in the demographic assumptions is to increase the cost of the programs by 0.02 percent of taxable payroll. The change in the valuation period from 1976-2050 to 1977-2051 substitutes a year of high cost for a low-cost year and increases the long-term cost by 0.24 percent of taxable payroll. The effects of the changes in assumptions starting with the 1974 report of the Trustees are shown in the following table:

TABLE 15.—ACTUARIAL FACTORS AFFECTING CHANGES IN ESTIMATES: 1974-77

[In percent of taxable payroll]

	1974 trustees' report	1975 trustees' report	1976 trustees' report	1977 trustees' report
Retirement rates.....	-0.14			
Disability assumptions....	-.21	-0.60	-0.33	-.26
Population and demo- graphic assumptions....	-1.87	-.24	-.69	¹ +.02
Economic assumption....	-.19	-1.95	-1.24	+1.12
Female labor force partic- ipants.....		+35		
Supreme Court decision on dependency test.....				-0.12
All other (net).....	-.06	+10	-.54	² -.02
Total.....	-2.47	-2.34	-2.08	-.26

¹ Includes -0.64 as a result of changed mortality and +0.66 as a result of changed fertility assumptions.

² Includes -.024 as a result of change in valuation period (from 1976-2050 to 1977-2051).

Note: A negative (-) figure indicates an increase in the deficit while a positive (+) figure indicates a decrease in the deficit.

The full effect of the changes in assumptions on the estimated cost of the program does not come all at once. For the first 25 years the increase in cost is significant but relatively small when compared with the rises occurring in the rest of the valuation period.

TABLE 16.—ESTIMATED EXPENDITURES UNDER PRESENT LAW OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM AS PERCENT OF TAXABLE PAYROLL FOR SELECTED YEARS, 1977-2055

[In percent]

Calendar year	Expenditures as percent of taxable payroll ¹			Tax rate in law	Difference
	Old-age and survivors insurance	Disability insurance	Total		
1977.....	9.40	1.50	10.91	9.90	-1.01
1978.....	9.37	1.53	10.89	9.90	-.99
1979.....	9.30	1.55	10.86	9.90	-.96
1980.....	9.21	1.59	10.80	9.90	-.90
1981.....	9.24	1.65	10.88	9.90	-.98
1982.....	9.31	1.70	11.01	9.90	-1.11
1983.....	9.40	1.77	11.17	9.90	-1.27
1984.....	9.51	1.84	11.35	9.90	-1.45
1985.....	9.64	1.92	11.56	9.90	-1.66
1986.....	9.77	1.99	11.76	9.90	-1.86
1987.....	9.86	2.06	11.92	9.90	-2.02
1988.....	9.95	2.13	12.08	9.90	-2.18
1989.....	10.03	2.20	12.23	9.90	-2.33
1990.....	10.12	2.27	12.39	9.90	-2.49
1991.....	10.20	2.34	12.54	9.90	-2.64
1992.....	10.28	2.41	12.68	9.90	-2.78
1993.....	10.35	2.48	12.83	9.90	-2.93
1994.....	10.42	2.56	12.98	9.90	-3.08
1995.....	10.50	2.64	13.14	9.90	-3.24
1996.....	10.54	2.73	13.27	9.90	-3.37
1997.....	10.60	2.83	13.43	9.90	-3.53
1998.....	10.66	2.92	13.58	9.90	-3.68
1999.....	10.72	3.02	13.74	9.90	-3.84
2000.....	10.79	3.12	13.91	9.90	-4.01
2001.....	10.89	3.23	14.12	9.90	-4.22
2005.....	11.30	3.66	14.96	9.90	-5.06
2010.....	12.46	4.11	16.57	9.90	-6.67
2015.....	14.47	4.42	18.89	11.90	-6.99
2020.....	17.05	4.59	21.64	11.90	-9.74
2025.....	19.75	4.55	24.30	11.90	-12.40
2030.....	21.57	4.45	26.02	11.90	-14.12
2035.....	22.26	4.43	26.69	11.90	-14.79
2040.....	22.12	4.55	26.67	11.90	-14.77
2045.....	21.83	4.76	26.59	11.90	-14.69

See footnote at end of table.

TABLE 16.—ESTIMATED EXPENDITURES UNDER PRESENT LAW OF OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM AS PERCENT OF TAXABLE PAYROLL FOR SELECTED YEARS, 1977-2055—Continued

[In percent]

Calendar year	Expenditures as percent of taxable payroll ¹			Tax rate in law	Difference
	Old-age and survivors insurance	Disability insurance	Total		
2050.....	22.02	4.91	26.93	11.90	-15.03
2055.....	22.53	4.98	27.51	11.90	-15.61
25-yr averages:					
1977-2001....	10.00	2.24	12.24	9.90	-2.34
2002-26.....	14.65	4.20	18.85	11.18	-7.67
2027-51.....	21.86	4.61	26.47	11.90	-14.57
75-yr average:					
1977-2051....	15.51	3.68	19.19	10.99	-8.20

¹ Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which incorporates ultimate annual increases of 5½ percent in average wages in covered employment and 4 percent in CPI, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

**III. DEALING WITH THE SOCIAL SECURITY
DEFICITS**

III. DEALING WITH THE SOCIAL SECURITY DEFICITS

Although it is correct to view the social security financing problem as involving two deficits—long run and short run—there is considerable interaction between the two. In fact, under the present program, the deficit is estimated to increase every year throughout the entire 75-year valuation period. Significant additional financing is necessary to keep the program operating over the next several years and basic changes in program structure and/or financing are needed. Making long-range changes will not eliminate the need for short-range financing. However, the long-range structural problems of the program will become more severe each year if the short-range financing is not taken care of. Moreover, the proposal chosen by Congress to deal with the long-range financing situation can affect the judgment as to the most appropriate methods of dealing with the short-range situation.

Administration Package

The Administration has proposed a package of changes in the social security system designed to reduce future social security expenditures and to increase trust fund income. Although draft legislation to carry out the Administration program has not yet been submitted, the following details of the elements of that program have been made known:

Changes in the basic benefit structure.—The present law automatic benefit increase mechanism now applies both to benefits after retirement and to the formula for initially determining benefits for new retirees. The Administration proposal would make that mechanism inapplicable in the future to the formula for determining initial benefits. This modification is commonly referred to as “decoupling.” As a substitute for the present automatic adjustment mechanism as it applies to the formula for determining initial benefits, the Administration proposal would establish a new formula in which initial benefits would be based on the worker’s wages after adjustment for changes in wage levels over his working lifetime. This is commonly referred to as “wage-indexing.” The proposed new benefit structure would maintain replacement rates at approximately current levels. It is essentially the same change recommended by the 1974 Advisory Council and the Ford Administration.

Eligibility for dependents benefits.—The package includes a proposal under which a wife, widow, husband, or widower would have to meet a test of dependency on the spouse in order to qualify for dependents or survivors benefits.

General revenues.—General revenues would be transferred to the OASDI trust funds to replace social security taxes lost as a result of unemployment in excess of 6 percent during the recent recession. The proposal would apply to the period 1975–1982. (Under the intermediate assumptions in the 1977 trustees report, the rate drops below 6 percent after 1978.)

Employee and self-employed tax base.—The Administration proposal would increase the annual amount of wages or self-employment income subject to the employee share of social security taxes (or the self-employment tax) by \$2,400 over and above the levels which would apply under existing law. This change would take place in 4 steps with \$600 increases in 1979, 1981, 1983, and 1985.

Employer tax base.—The limit on annual wages subject to the employer part of the social security tax would be eliminated entirely in 1981. (It would be increased to \$23,400 in 1979 and \$37,500 in 1980.)

Self-employment tax rate.—The rate of the social security tax for the cash-benefits program for self-employed persons would be increased to a rate equal to 1½ times the rate for employees. This change would be effective in 1979.

Reallocation of HI tax revenue.—A portion of the Hospital Insurance tax rate would be shifted to the cash-benefits program beginning in 1978.

Long-range increase in OASDI tax rates.—The combined employer-employee tax rate for the social security cash benefits-program is now 9.9 percent and is scheduled under present law to rise to 11.9 percent in 2011. The Administration would advance the date of the increase, making 0.5 percent (0.25 each for employee and employer) effective in 1985 and the remaining 1.5 percent (0.75 each) effective in 1990.

Long-term cost estimates of Administration proposal.—The total package shows a slight (0.5 percent of taxable payroll) actuarial surplus in the 25-year period 1977-2002; in the long-term (1977-2051) the proposal would have a deficit of 1.9 percent of taxable payroll or 13 percent of the cost of the revised program. The following table summarizes the 75-year cost effects of the Administration proposal:

TABLE 17.—IMPACT OF ADMINISTRATION PROPOSALS ON LONG, RANGE FINANCIAL STATUS OF TRUST FUNDS

[As percent of taxable payroll]

Deficit under present law	-8.2
Savings from decoupling	+12.0
Cost of wage-indexed benefit formula	-7.9
Effect of:	
Employer base increases	+0.9
Employee base increases	+0.1
Self-employed tax increase	+0.1
Diversion of hospital taxes and acceleration of 2011 tax rate increase	+1.0
Dependency tests	+0.1
Residual deficit	<u>1-1.9</u>

¹ While the Administration's proposals would assure sufficient financing for the next 25 years or so and maintain the reserve ratio above one-third in the 1980's, they would leave a long-range deficit of 1.9 percent of taxable payroll, which is equal to about 12.6 percent of long range expenditures, under the program as it would be modified by the Administration's recommendations. The Administration says that this deficit is to be studied by the Social Security Advisory Council along with other benefit adequacy questions which would change the long range deficit.

Short-term effects of the Administration proposals.—The Administration has indicated that the cash-benefits programs will need an additional \$83 billion in the period 1978–1982 in order to have a trust fund balance equivalent to 50 percent of one year's outgo. In order to provide this amount they have suggested a number of changes which could (1) reduce the amount needed by \$27 billion and (2) provide an additional \$56 billion in additional income.

The additional income would be provided by:

	<i>Billions</i>
Additional employer taxes.....	\$30
Additional employee taxes.....	4
Diversion of hospital insurance taxes.....	7
Increase in self-employment tax rate.....	1
Appropriation from general revenues.....	14
Total.....	56

The reduction would come from:

	<i>Billions</i>
Reducing the ratio of trust fund assets to expenditures from 50 percent to 35 percent.....	\$24
Adding a dependency requirement for spouses benefits.....	3
Total.....	27

The following tables show the estimated status of the cash-benefits trust funds under present law and under the Administration's package of proposals over the period 1977–1987:

TABLE 18.—ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, DURING CALENDAR YEARS 1977-87 UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY THE ADMINISTRATION'S PROPOSALS

[In billions of dollars]

	Income		Outgo		Net increase in funds	
	Present law	Admin-istration proposal	Present law	Admin-istration proposal	Present law	Admin-istration proposal
Calendar year:						
1977.....	82.1	82.1	87.7	87.7	-5.6	-5.6
1978.....	90.7	98.0	97.5	97.4	-6.9	.6
1979 ¹	99.5	108.5	107.4	107.1	-7.9	1.4
1980 ¹	108.9	121.3	118.0	117.4	-9.1	3.9
1981 ¹	117.4	134.1	128.9	128.0	-11.5	6.1
1982 ¹	125.2	144.7	140.1	138.7	-14.9	6.0
1983 ¹	132.9	155.1	152.1	149.9	-19.2	5.2
1984 ¹	140.7	165.7	165.1	162.1	-24.4	3.6
1985 ¹	148.4	184.8	179.2	175.4	-30.9	9.4
1986 ¹	156.2	198.3	194.4	189.4	-38.2	8.9
1987 ¹	164.4	211.7	210.5	204.4	-46.2	7.2

[Dollar amounts in billions]

	Funds at end of year		Funds at beginning of year as a percentage of outgo during year	
	Present law	Adminis-tration proposal	Present law	Adminis-tration proposal
Calendar year:				
1977.....	\$35.5	\$35.5	47	47
1978.....	28.6	36.1	36	36
1979 ¹	20.7	37.6	27	34
1980 ¹	11.6	41.5	18	32
1981 ¹.....	.1	47.6	9	32
1982 ¹	-14.8	53.6	(²)	34
1983 ¹	-34.0	58.9	(³)	36
1984 ¹	-58.4	62.5	(³)	36
1985 ¹	-89.3	71.9	(³)	36
1986 ¹	-127.4	80.8	(³)	38
1987 ¹	-173.6	88.0	(³)	40

¹ Because it is estimated that the DI trust fund will be exhausted in 1979 under present law, the figures for 1979-87 under present law are theoretical.

² Less than 0.5 percent.

³ Funds exhausted.

TABLE 19.—ESTIMATED OPERATIONS OF THE OASI TRUST FUND DURING CALENDAR YEARS 1977-87 UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY THE ADMINISTRATION'S PROPOSALS

[In billions of dollars]

	Income		Outgo		Net increase in fund	
	Present law	Admin- istration proposal	Present law	Admin- istration proposal	Present law	Admin- istration proposal
Calendar year:						
1977.....	72.5	72.5	75.7	75.6	-3.2	-3.1
1978.....	79.8	84.0	83.9	83.8	-4.1	.3
1979.....	87.7	92.6	92.1	91.8	-4.4	.8
1980.....	96.1	103.5	100.6	100.2	-4.5	3.3
1981.....	102.8	113.4	109.4	108.8	-6.7	4.6
1982.....	109.7	122.2	118.4	117.4	-8.7	4.8
1983 ¹	116.7	129.7	127.9	126.4	-11.2	3.3
1984 ¹	123.9	138.3	138.3	136.2	-14.4	2.1
1985 ¹	131.1	155.5	149.5	146.8	-18.4	8.7
1986 ¹	136.9	164.6	161.4	158.0	-24.5	6.5
1987 ¹	144.3	175.3	174.1	170.0	-29.7	5.3

[Dollar amounts in billions]

	Fund at end of year		Fund at beginning of year as a percentage of outgo during year	
	Present law	Adminis- tration proposal	Present law	Adminis- tration proposal
Calendar year:				
1977.....	\$32.2	\$32.3	47	47
1978.....	28.2	32.5	38	39
1979.....	23.8	33.3	31	35
1980.....	19.3	36.6	24	33
1981.....	12.7	41.3	18	34
1982.....	4.0	46.1	11	35
1983 ¹	-7.3	49.3	3	36
1984 ¹	-21.7	51.4	(²)	36
1985 ¹	-40.1	60.2	(²)	35
1986 ¹	-64.6	66.7	(²)	38
1987 ¹	-94.4	72.0	(²)	39

¹ Because it is estimated that the OASI trust fund will be exhausted in 1983 under present law, the figures for 1983-87 under present law are theoretical.

² Fund exhausted in 1983.

TABLE 20.—ESTIMATED OPERATIONS OF THE DI TRUST FUND DURING CALENDAR YEARS 1977-87 UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY THE ADMINISTRATION'S PROPOSALS

[In billions of dollars]

	Income		Outgo		Net increase in fund	
	Present law	Administration proposal	Present law	Administration proposal	Present law	Administration proposal
Calendar year:						
1977.....	9.6	9.6	12.1	12.1	-2.5	-2.5
1978.....	10.8	14.0	13.6	13.6	-2.8	.4
1979 ¹	11.8	15.9	15.4	15.3	-3.5	.6
1980 ¹	12.7	17.8	17.4	17.2	-4.6	.6
1981 ¹	14.6	20.7	19.5	19.2	-4.9	1.5
1982 ¹	15.5	22.4	21.7	21.2	-6.2	1.2
1983 ¹	16.2	25.5	24.1	23.5	-8.0	2.0
1984 ¹	16.8	27.4	26.8	25.9	-10.0	1.5
1985 ¹	17.3	29.3	29.8	28.6	-12.4	.7
1986 ¹	19.3	33.8	33.0	31.4	-13.6	2.4
1987 ¹	20.0	36.3	36.4	34.4	-16.4	1.9

[Dollar amounts in billions]

Calendar year:	Fund at end of year		Fund at beginning of year as a percentage of outgo during year	
	Present law	Administration proposal	Present law	Administration proposal
1977.....	\$3.3	\$3.3	48	48
1978.....	.5	3.6	24	24
1979 ¹	-3.1	4.2	3	24
1980 ¹	-7.7	4.8	(²)	24
1981 ¹	-12.6	6.3	(²)	25
1982 ¹	-18.8	7.6	(²)	30
1983 ¹	-26.7	9.5	(²)	32
1984 ¹	-36.7	11.0	(²)	37
1985 ¹	-49.2	11.7	(²)	39
1986 ¹	-62.8	14.1	(²)	37
1987 ¹	-79.2	16.0	(²)	41

¹ Because it is estimated that the DI trust fund will be exhausted in 1979 under present law, the figures for 1979-87 are theoretical.

² Fund exhausted in 1981.

Additional employer taxes.—Under present law employers, employees and the self-employed are taxed on the first \$16,500 of an individual's earnings. (The amount is scheduled to rise each year as average earnings rise.) The Administration proposes to remove this limitation on the employer tax base in three steps. In 1979 the employer tax would be applied to the first \$23,400 of an individual's wages and to the first \$37,500 in 1980. Starting in 1981 the employer's total payroll would be covered. The additional taxes which employers would pay in the years 1979–82 would be:

[In billions of dollars]

	Additional employer taxes		
	Old-age, survivors, and disability insurance	Hospital insurance	Total
Year:			
1979.....	2.1	0.5	2.6
1980.....	5.0	1.1	6.1
1981.....	8.1	2.2	10.3
1982.....	9.0	2.4	11.4

Additional employee taxes.—As mentioned above, the present law puts a ceiling on the amount of earnings subject to the social security tax, and the ceiling rises as average earnings rise. The administration proposes four additional increases of \$600 in 1979, 1981, 1983 and 1985. The estimated ceilings under present law and under the administration proposal are shown below:

	Ceiling	
	Present law	Administration proposal
Year:		
1979.....	\$18,900	\$19,500
1980.....	20,400	21,000
1981.....	21,900	23,100
1982.....	23,400	24,600
1983.....	24,900	26,700
1984.....	26,400	28,200
1985.....	27,900	30,300
1986.....	29,400	32,100
1987.....	31,200	33,900
1988.....	33,000	35,700
1989.....	34,800	37,800
1990.....	36,900	39,900

The additional taxes that would be paid by employees and the self-employed as a result of the tax base increases are shown in the following table:

[In billions of dollars]

	Additional employee taxes		Total
	Old-age, survivors, and disability insurance	Hospital insurance	
Year:			
1979.....	0.4	0.1	0.5
1980.....	.5	.1	.6
1981.....	.9	.2	1.1
1982.....	1.0	.3	1.3

Diversion of hospital insurance taxes.—Under present law the hospital insurance program (Part A of Medicare) is financed through a payroll tax (separate from the taxes which support the cash-benefits program) which is permanently appropriated to the Federal Hospital Insurance Trust Fund. The tax is subject to the same ceiling which applies to the cash-benefits program and is paid by employees, employers and the self-employed. For 1977, the tax rate is 0.9 percent of earnings and is scheduled to rise to 1.1 percent in 1978 and to 1.35 percent in 1981 with additional increases in later years. The Administration proposes that these rates be cut to 1 percent in 1978 and to 1.15 percent in 1981. At the same time the cash-benefits tax rates would be increased by 0.1 percent in 1978, from 4.95 percent to 5.05 percent, and by an additional 0.1 percent (to 5.15 percent) in 1981.

Increase in OASDI Trust Fund and decrease in HI Trust Fund

	<i>Billions</i>
1978.....	\$1.6
1979.....	2.0
1980.....	2.3
1981.....	4.8
1982.....	5.4

Although the 1977 report of the Trustees of the hospital insurance trust fund states that, over the 25-year period covered by the cost estimates, the average deficit is 1.16 percent of taxable payroll, the Administration says that the program will need less money than previously anticipated if their cost containment program is enacted. Should that program be enacted, they anticipate a savings of about \$10 billion through 1982. In effect, they propose to allocate \$7 billion of the anticipated savings plus all of the added revenue generated by the proposed tax base increases and general fund contributions to the cash-benefits programs.

The net impact of the Administration's short-range financing proposals on the hospital insurance program would be an increase in the deficit from 1.16 percent of taxable payroll to 1.22 percent of taxable

payroll. If the Administration's cost containment proposals are enacted and have the anticipated effects, that deficit would be reduced to 0.79 percent of payroll (at current payroll levels about \$6.3 billion per year over the 25-year valuation period). The Hospital Insurance trust fund would become exhausted under the Administration's financing proposal in 1985 or, if the cost containment proposals are enacted and effective, in 1990.

TABLE 21.—LONG RANGE (25-YEAR) STATUS OF HOSPITAL INSURANCE TRUST FUND UNDER INTERMEDIATE ASSUMPTIONS

[In percent of taxable payroll]

	Under present law	Under administration financing proposal	
		Without cost containment	With cost containment
Average cost.....	3.96	3.66	3.23
Average tax rate.....	2.80	2.44	2.44
Actuarial balance.	-1.16	-1.22	-0.79

TABLE 22.—HOSPITAL INSURANCE TRUST FUND BALANCES

Year	Start-of-year balance (billions)			Start-of-year balance as percent of outgo for year		
	Present law	Administration proposal		Present law	Administration proposal	
		Without containment	With containment		Without containment	With containment
1978...	\$11	\$11	\$11	55	55	58
1979...	12	12	13	56	53	60
1980...	14	12	14	53	47	60
1981...	14	11	16	45	39	59
1982...	17	13	20	50	38	65
1983...	19	12	23	50	31	67
1984...	19	9	25	44	20	64
1985...	17	2	24	34	5	56
1986...	11	0	21	20	0	44
1987...	6	.....	21	10	.....	38
1988...	0	.....	18	0	.....	29
1989...	.....	.....	12	.....	.....	18
1990.....	.....	.....	2	.....	.....	3
1991.....	.....	.....	0	.....	.....	0

Increase in self-employment tax rate.—When earnings from self-employment were made subject to the social security tax in 1950, the rate was set at 1.5 times the employee rate. At that time the employee rate was 1.5 percent and the self-employment rate was 2.25 percent. Over the years as tax rates were increased, the 1.5 ratio was maintained until 1973 when the cash-benefits rate for the self-employed was frozen at 7 percent. (When the hospital insurance program was established the self-employment rate for that program was made equal to the employee rate and has remained equal as the rate has increased.) The Administration proposal would increase the self-employment tax rate for cash benefits according to the original ratio of 1.5 times the employee rate.

The additional taxes that would be paid by the self-employed in the period 1979–1982 are shown in the following table:

Year:	Additional Self-Employment Tax	Billions
1979.....		\$0.1
1980.....		.3
1981.....		.4
1982.....		.4

New tax rate schedules.—The parts of the Administration package calling for increased self-employment tax and the diversion of hospital insurance funds into the OASDI funds would necessitate the enactment of revised tax rate schedules as shown below:

TABLE 23.—SOCIAL SECURITY TAX RATES UNDER PRESENT LAW AND UNDER THE ADMINISTRATION'S PROPOSALS

[Percent of taxable earnings]

	OASDI	OASI	DI	HI	Total
EMPLOYEES AND EMPLOYERS, EACH					
Present law:					
1977.....	4.950	4.375	0.575	0.900	5.850
1978–80.....	4.950	4.350	.600	1.100	6.050
1981–82.....	4.950	4.300	.650	1.350	6.300
1983–84.....	4.950	4.300	.650	1.350	6.300
1985.....	4.950	4.300	.650	1.350	6.300
1986–89.....	4.950	4.250	.700	1.500	6.450
1990–2010.....	4.950	4.250	.700	1.500	6.450
2011 and later.....	5.950	5.100	.850	1.500	7.450
Proposal:					
1977.....	4.950	4.375	.575	.900	5.850
1978–80.....	5.050	4.300	.750	1.000	6.050
1981–82.....	5.150	4.350	.800	1.150	6.300
1983–84.....	5.150	4.300	.850	1.150	6.300
1985.....	5.400	4.550	.850	1.150	6.550
1986–89.....	5.400	4.475	.925	1.300	6.700
1990–2010.....	6.150	5.000	1.150	1.300	7.450
2011 and later.....	6.150	5.000	1.150	1.300	7.450

TABLE 23.—SOCIAL SECURITY TAX RATES UNDER PRESENT LAW AND UNDER THE ADMINISTRATION'S PROPOSALS

[Percent of taxable earnings]

	OASDI	OASI	DI	HI	Total
SELF-EMPLOYED PERSONS					
Present law:					
1977.....	7.000	6.185	.815	.900	7.900
1978.....	7.000	6.150	.850	1.100	8.100
1979-80.....	7.000	6.150	.850	1.100	8.100
1981-82.....	7.000	6.080	.920	1.350	8.350
1983-84.....	7.000	6.080	.920	1.350	8.350
1985.....	7.000	6.080	.920	1.350	8.350
1986-89.....	7.000	6.010	.990	1.500	8.500
1990-2010.....	7.000	6.010	.990	1.500	8.500
2011 and later.....	7.000	6.000	1.000	1.500	8.500
Proposal:					
1977.....	7.000	6.185	.815	.900	7.900
1978.....	7.100	6.045	1.055	1.000	8.100
1979-80.....	7.600	6.470	1.130	1.000	8.600
1981-82.....	7.700	6.500	1.200	1.150	8.850
1983-84.....	7.700	6.430	1.270	1.150	8.850
1985.....	8.100	6.830	1.270	1.150	9.250
1986-89.....	8.100	6.710	1.390	1.300	9.400
1990-2010.....	9.200	7.480	1.720	1.300	10.500
2011 and later.....	9.200	7.480	1.720	1.300	10.500

Appropriation from general revenues.—The Administration proposal includes what it describes as a counter-cyclical financing mechanism to compensate the cash-benefits and hospital insurance programs for the income that is not forthcoming from taxes because unemployment is in excess of 6 percent. The proposal would transfer funds from general revenues to the OASDI trust funds. The details of the proposed transfer have not been made available but the process would involve a formula for determining the amount of social security taxes that were not paid in the period 1975-1978 when unemployment was above 6 percent. The amount calculated under this formula, \$14.1 billion for the entire period, would be appropriated to the trust fund in three installments:

	<i>Billions</i>
1978.....	\$6.5
1979.....	4.3
1980.....	3.3
Total.....	14.1

Although the Administration proposals are based on an assumption that the provision would become a permanent part of the social security financing plan, they suggest that it be enacted on a temporary basis. The Advisory Council on Social Security (to be appointed this year and to report at the end of 1978) would be charged with recommending whether such a provision should be part of the permanent financing scheme.

Ratio of trust fund assets.—The Administration short-term financing proposals are premised on a decision to recommend that the balance in the social security trust funds at the end of any year should be about 50 percent of the expenditures anticipated for the following year. This 50 percent ratio, they say, could be further reduced to 35 percent, provided that their recommendations for general revenue financing are adopted. If a 50 percent trust fund level was determined to be desirable, rather than the 35 percent level, an additional \$24.1 billion would be needed for the period 1978–1982.

Dependency requirement for spouses benefits.—The Social Security Act provides benefits for a wife or a widow without regard to her actual dependency on her husband. However, benefits for a husband or a widower are authorized in the law only if the husband received at least one-half of his support from his wife in the year before she became disabled, retired or died. Recently the Supreme Court ruled that the provision of the Act requiring a husband or widower to establish his dependency was discriminatory and unconstitutional. Therefore, the Social Security Administration has begun to pay benefits to husbands and widowers even though they were not dependent on their wives.

The Administration proposes that the law be changed so that in the future benefits would be awarded to wives, widows, husbands, and widowers only when they are dependent on their spouses. Details of how the new dependency test would work have not been made available. The Secretary of Health, Education, and Welfare in his prepared testimony before the House Subcommittee on Social Security said: "Under our proposal, in order to qualify for benefits, a person must show that he or she earned less than one-half of the couple's total income in the three years prior to the application for benefits." The year-by-year savings resulting from the adoption of this provision are shown below:

Year:	Reduction in Benefit Payments	Billions
1978.....		\$0.1
1979.....		.3
1980.....		.5
1981.....		.7
1982.....		1.0

TABLE 24.—SOURCE OF ADDITIONAL REVENUES PRODUCED BY ADMINISTRATION PLAN

[In billions of dollars]

Year	Change in trust funds current law	Removing base for employers	Counter-cyclical general revenues	Increasing base for employees	Increasing self-employment tax rate	Reduced outgo ¹	Reallo-cation of part of HI rate	Added interest income	Total effect	Change in trust funds under plan
Old-age, survivors, and disability insurance										
1978.....	-6.9	.....	+5.5	.....	.....	+0.1	+1.6	+0.3	+7.5	+0.6
1979.....	-7.9	+2.1	+3.6	+0.4	+0.1	+3	+2.0	+8	+9.3	+1.4
1980.....	-9.1	+5.0	+2.8	+5	+3	+6	+2.3	+1.5	+13.0	+3.9
1981.....	-11.5	+8.1	.....	+9	+4	+9	+4.8	+2.5	+17.7	+6.1
1982.....	-14.9	+9.0	.....	+1.0	+4	+1.5	+5.4	+3.7	+20.9	+6.0
Hospital insurance										
1978.....	+1.9	.....	+1.0	.....	.....	+0.8	-1.6	.....	+0.2	+2.0
1979.....	+1.2	+5	+7	+1	.....	+1.3	-2.0	+0.1	+7	+1.9
1980.....	-.1	+1.1	+5	+1	.....	+2.0	-2.3	+1	+1.5	+1.4
1981.....	+3.6	+2.2	.....	+2	.....	+2.7	-4.8	+2	+5	+4.0
1982.....	+2.3	+2.4	.....	+3	.....	+3.4	-5.4	+2	+9	+3.2
Cumulative total, 1977-82										
OASDI.....	-50.3	+24.2	+11.9	+2.8	+1.2	+3.5	+16.1	+8.8	+68.4	+18.1
HI.....	+8.8	+6.2	+2.2	+7	.....	+10.2	-16.1	+6	+3.7	+12.5
Total.....	-41.5	+30.4	+14.1	+3.5	+1.2	+13.6	.....	+9.4	+72.1	+30.6

¹ Includes effect of institution of new dependency test, decoupling, and hospital cost containment.

Note: Individual items may not add to total due to rounding.

Effects of the Administration proposals.—The following 2 tables show how the Administration proposals would affect the financial status of the social security system at different points in the future. The first table shows the impact only considering the adoption of a new wage-indexed benefit formula. The second table shows the impact of the entire package.

TABLE 25.—COMPARISON OF OASDI COST PROJECTION UNDER THE ADMINISTRATION WAGE-INDEXING PROPOSAL¹ AND THE OASDI TAX RATES SCHEDULED IN PRESENT LAW

[As percent of taxable payroll]

	OASDI cost	OASDI tax rate	Difference
Calendar year:			
1977.....	10.91	9.90	-1.01
1978.....	10.89	9.90	-1.01
1979.....	10.86	9.90	-.96
1980.....	10.76	9.90	-.89
1981.....	10.86	9.90	-.96
1982.....	10.98	9.90	-1.08
1983.....	11.11	9.90	-1.22
1984.....	11.27	9.90	-1.37
1985.....	11.43	9.90	-1.53
1986.....	11.59	9.90	-1.69
1987.....	11.71	9.90	-1.81
1988.....	11.81	9.90	-1.91
1989.....	11.87	9.90	-1.97
1990.....	11.92	9.90	-2.02
1991.....	11.99	9.90	-2.09
1992.....	12.05	9.90	-2.15
1993.....	12.12	9.90	-2.22
1994.....	12.19	9.90	-2.29
1995.....	12.25	9.90	-2.35
1996.....	12.30	9.90	-2.40
1997.....	12.36	9.90	-2.46
1998.....	12.40	9.90	-2.50
1999.....	12.46	9.90	-2.56
2000.....	12.51	9.90	-2.61
2001.....	12.60	9.90	-2.70
2005.....	12.91	9.90	-3.01
2010.....	13.75	9.90	-3.85
2015.....	15.08	11.90	-3.18
2020.....	16.74	11.90	-4.84
2025.....	18.23	11.90	-6.33

See footnotes at end of table.

TABLE 25.—COMPARISON OF OASDI COST PROJECTION UNDER THE ADMINISTRATION WAGE-INDEXING PROPOSAL¹ AND THE OASDI TAX RATES SCHEDULED IN PRESENT LAW—Continued

[As percent of taxable payroll]

	OASDI cost	OASDI tax rate	Difference
2030.....	19.00	11.90	-7.10
2035.....	18.97	11.90	-7.07
2040.....	18.45	11.90	-6.55
2045.....	18.01	11.90	-6.11
2050.....	17.85	11.90	-5.95
25-yr averages:			
1977-2001.....	11.73	9.90	-1.83
2002-26.....	15.12	11.18	-3.94
2027-51.....	18.48	11.90	-6.58
75-yr average: 1977-2051.....	15.11	10.99	-4.12

¹ The system considered here excludes any of the Administration's proposals that would increase income as well as the new proposed dependency test for living or surviving spouses.

Note: The above estimates are based on alternative II assumptions used in the 1977 OASDI Trustees report.

TABLE 26.—ADMINISTRATION PACKAGE,¹ OASDI COST PROJECTIONS OVER THE LONG RANGE (1977-2051)

[As percent of taxable payroll]

	OASDI cost	Proposed tax rate	Difference
Calendar year:			
1977.....	10.91	9.90	-1.01
1980.....	10.17	10.10	-.07
1985.....	10.41	10.80	+.39
1990.....	10.84	12.30	+1.46
1995.....	11.15	12.30	+1.15
2000.....	11.41	12.30	+.89
2005.....	11.78	12.30	+.52
2010.....	12.56	12.30	-.26
2015.....	13.81	12.30	-1.51
2020.....	15.37	12.30	-3.07
2025.....	16.75	12.30	-4.45
2030.....	17.47	12.30	-5.17
2035.....	17.46	12.30	-5.16
2040.....	16.99	12.30	-4.69
2045.....	16.58	12.30	-4.28
2050.....	16.43	12.30	-4.13
25-yr averages:			
1977-2001.....	10.80	11.32	+.52
2002-26.....	13.84	12.30	-1.54
2027-51.....	17.00	12.30	-4.70
75-yr average: 1977-2051.....	13.88	11.97	-1.91

¹ Reflects combined impact of decoupling, wage-indexed benefit formula, new taxes and other proposed changes.

Note: The above estimates are based on alternative II assumptions used in the 1977 Trustees' report.

Reducing the Long-Term Deficit

The goal of long-range financing.—Over the years Congress has sought to finance the social security program on what has been called an actuarially sound basis. In general, the social security program can be said to be on an actuarially sound basis if, over the period covered by the estimates, income is sufficient to pay the benefits provided and the administrative costs of the program. Clearly, it is not possible to make estimates over so long a period with absolute precision. Therefore, some tolerance for error must be included in the definition of actuarial soundness. At one time the cost estimates were carried out into the indefinite future (perpetuity) and the program was considered in actuarial balance if income and outgo varied by no more than plus or minus 0.25 percent of taxable payroll. When the valuation period

was reduced to a finite 75-year term, the permissible variation was reduced to 0.1 percent of taxable payroll. When these tolerances were generally accepted the estimates were made on the so-called "level-cost" basis which assumed that the law would not be changed and that wages and benefits would remain at the actual levels existing at the time the estimates were made.

When the automatic increases in the tax base and cost-of-living benefit increase provisions were added to the law, the estimates showed the program to be in actuarial balance under the 0.1 percent tolerance. However in 1973, the Committee on Ways and Means stated in its report on a bill to increase social security benefits (H.R. 11333) that the "acceptable limit of variation" was plus or minus 5 percent of the cost of the program, or at that time 0.57 percent of taxable payroll. This judgment was based on the opinion of the Social Security Administration's actuary that a greater tolerance than the former 0.1 percent of payroll would have to be accepted under the new assumptions of rising wages and rising benefits. Indicating that the experience up to that time had been inadequate to indicate what the acceptable imbalance should be, he believed that it might be in the neighborhood of 5 percent of the cost of the program.

Since that time, there have been no definitive statements as to the tolerances which should be applied in determining whether the program is in actuarial balance. The income to the present program has a long-term average value of 10.99 percent of taxable payroll and a long-term cost of 19.19 percent. Therefore, if 5 percent of program income is used as the tolerance and the program's financing were not increased, a maximum deficit of 0.55 percent of payroll would be within the acceptable limits. This would mean that the program's cost would have to be reduced to a level that was not in excess of 11.54 percent of taxable payroll. (At present payroll levels, 0.55 percent of taxable payroll amounts to \$4.4 billion a year.) While the tolerance would be a residual deficit of 0.55 percent of payroll, the goal of long-range financing would be to bring income and outgo into as nearly complete balance as possible. In other words, within the current 10.99 percent average tax rate, the goal would be a program costing 10.99 percent of taxable payroll but that goal could be considered acceptably met if the estimated cost fell between 10.44 and 11.54 percent of taxable payroll. (Similarly, if the long-range cost of the program were not reduced below its current level of 19.19 percent of taxable payroll and the 5-percent-of-cost tolerance were used as the guideline for actuarial soundness, the funding of the program would have to be increased from its present level of 10.99 percent to 18.23 in order to be within the 0.96 percent tolerance.)

The means to achieve long-range soundness.—The reason for the long-term deficit is not that Congress has changed the program since 1972 when it was last determined to be soundly financed; rather it is because the actuaries have found it necessary to change the assumptions as to what social and economic changes may occur over the next 75 years. The program is still what Congress provided in 1972; it is just being looked at from a changed vantage point. In brief, from the 1977 point of view the estimated deficit is the result of changed assumptions as to economic and demographic factors such as the long-term relationship between wages and prices, population growth, longevity and disa-

bility rates. The changed assumptions, however, are not arbitrary changes but reflect changing conditions in the economy and society which have made it necessary to change the actuarial judgment as to what are the most likely future economic and demographic situations. While these assumptions will, in turn, have to be revised from time to time, they do represent a reasonably firm basis on which to predict the direction and to some degree the magnitude of future changes in outgo and income for the social security program.

While it is not really possible to directly change the economic and demographic factors which will ultimately determine whether the social security program is soundly financed, it is possible to modify the benefit structure of the program to reduce the anticipated deficit which may result from future changes in economic and demographic conditions. Moreover these changes can be made so as to make sound financing of the program considerably less sensitive to variations in economic conditions. Some reduction in the ultimate cost of the program would be possible through a variety of proposals dealing with specific elements of entitlement. However, most proposals which have been advanced to significantly reduce the ultimate cost of the program and to make it less sensitive to economic changes involve changing the formula for determining the amount of initial benefits.

In revising the basic social security benefit formulas, a number of alternatives are possible depending upon what level of benefits Congress wishes the program to provide and what level of costs it wishes to provide funding for. As indicated in the first part of this document, two measures of adequacy for various alternative benefit structures are benefit levels in terms of purchasing power as compared with current levels and replacement rates—that is, the ratio of initial benefits to earnings just prior to retirement. The tables which follow present information concerning these elements together with cost information for a variety of proposals. For purposes of comparison, the first table shows how the present system has operated in this respect in the past and how it is projected to operate in the future under the intermediate assumptions in the 1977 Trustees' report.

TABLE 27.—HISTORICAL BEHAVIOR AND PROJECTIONS OF PRESENT PROGRAM

- Initial Average Benefit Same as in Present Law
- Workers Earnings Records Not Indexed
- Benefit Formula Bend Points Not Indexed
- Benefit Formula Factors CPI Indexed (*ad hoc* increases prior to 1975)

[In percent]

Year	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
Year:						
1955...	\$2,141	31	45	31	3.3	1.3
1960...	2,493	33	45	30	5.9	2.3
1965...	2,665	32	43	33	8.0	2.8
1970...	2,987	34	46	29	8.1	3.4
1975...	3,619	43	56	30	10.7	4.6
1979...	4,415	46	58	35	10.9	4.5
1985...	5,258	48	60	34	11.6	4.8
1990...	5,766	49	63	36	12.4	5.1
1995...	6,360	49	66	36	13.1	5.4
2000...	7,273	52	76	38	13.9	5.7
2010...	9,334	56	84	42	16.6	6.8
2020...	11,733	60	91	44	21.6	8.9
2030...	14,558	63	97	45	26.0	10.7
2040...	17,892	66	102	47	26.7	11.0
2050...	21,830	68	106	48	26.9	11.1

	Percent
Average medium-range cost (1977-2001).....	12.2
Average medium-range revenue.....	9.9
Average medium-range deficit.....	-2.3
Average long-range cost (1977-2051).....	19.2
Average long-range revenue.....	11.0
Average long-range deficit.....	-8.2

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Decoupling.—The starting point for most proposals for dealing with the long-term deficit of the social security system is a concept called “decoupling.” Decoupling means that the automatic benefit increase mechanism in present law would continue to apply to keep benefits inflation proof after a person retires and begins to draw his benefits but the formula for initially determining benefits at the time of retirement would no longer be automatically increased. If the system were simply decoupled with no other changes, a man or woman retiring in 1987 would get the same initial benefit as a man or woman with the same average earnings retiring in 1977. The level of initial benefits would tend to grow in the future but only as a result of rising wage levels which, using the same benefit formula, would tend to generate higher benefits. However, the rise in actual benefits awarded in the future would not be enough to keep pace with rising wage levels or to offset the rise in the CPI.

Simple decoupling would completely eliminate the long-range deficit and would, in fact, generate a long-range surplus of 3.8 percent of taxable payroll. However, the impact on benefit levels for initial retirees in the future would be a decline in adequacy as compared with the present situation whether measured as in terms of purchasing power or in terms of replacement rates. After simple decoupling, it would be necessary to adopt a new automatic mechanism for increasing initial benefit levels in order to assure continued adequacy unless Congress wished to leave this to ad hoc legislation. A number of proposals for automatic increases in initial benefit levels are discussed in the following pages.

TABLE 28.—IMPACT OF SIMPLE DECOUPLING

(Present law provisions except no CPI adjustment of benefit table)

- Initial Average Benefit Same as in Present Law
- Workers Earnings Records Not Indexed
- Benefit Formula Bend Points Not Indexed
- Benefit Formula Factors Not Indexed

Year	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate (percent)	Low earnings ² (percent)	High earnings ³ (percent)	As percent of payroll (percent)	As percent of GNP ⁴ (percent)
1979.....	\$4,415	46	58	35	10.9	4.5
1985.....	4,058	37	46	26	10.8	4.5
1990.....	3,657	31	40	22	10.3	4.2
1995.....	3,315	26	34	19	9.3	3.8
2000.....	3,116	22	32	17	8.2	3.4
2010.....	2,776	17	24	14	6.7	2.8
2020.....	2,650	14	18	12	6.3	2.6
2030.....	2,703	12	14	11	5.8	2.4
2040.....	2,903	11	12	10	4.9	2.0
2050.....	3,235	10	11	10	4.3	1.8

	<i>Percent</i>
Average medium-range cost (1977-2001).....	10.0
Average medium-range revenue.....	9.9
Average medium-range deficit.....	-.1
Average long-range cost (1977-2051).....	7.2
Average long-range revenue.....	11.0
Average long-range surplus.....	+3.8

¹ Assumed to be 4 times the average 1st quarter covered earnings.² Assumed at \$4,600 in 1976 and following the trends of the average.³ Assumed at the maximum taxable under the program.⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Option 1. Wage-indexing (Administration proposal).—This option involves the adoption of a new automatic mechanism for adjusting the formula for computing initial benefits which is designed to keep replacement rates at about existing levels. The proposal incorporating this objective uses a benefit formula in which the worker's initial benefit is based on his average wages during his working years but using wages after adjustment to offset changes in wage levels from year to year rather than using his actual unadjusted wages. This proposal, in slightly different forms, was recommended by the 1974 Social Security Advisory Council, the Ford Administration, and the Carter Administration.

The wage-indexing option would reduce the deficit by $\frac{1}{2}$ to 4.1 percent of payroll. (Put another way, it would use up the 3.8 percent of payroll surplus generated by decoupling and would require an additional 4.1 percent of payroll in new financing to restore the long-range soundness of the system.) The Carter Administration proposal includes long-range additional financing or reduction in cost equal to 2.2 percent, thus leaving a deficit to be financed later of 1.9 percent of payroll (equivalent, at 1977 payroll levels, to \$15 billion per year over the 75-year valuation period).

Under the wage-indexing proposal, replacement ratios would stabilize after falling about 1 percent from their 1979 levels. Thus, adequacy would be maintained in terms of replacement rates and substantially increased in terms of purchasing power. The real value of benefits would increase about $3\frac{1}{2}$ times in the period ending 2050. The theoretical individual with average earnings who qualified for an annual benefit of \$4,326 in 1979 would (in constant dollars) qualify for \$14,047 in 2050.

TABLE 29.—OPTION 1: WAGE INDEXING
(Proposal recommended by Carter Administration)

- Initial Average Benefit Close to Present Law in 1979
- Workers Earnings Records Wage Indexed
- Benefit Formula Bend Points Wage Indexed
- Benefit Formula Factors Not Indexed

Year	Workers with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate (percent)	Low earnings ² (percent)	High earnings ³ (percent)	As percent of payroll (percent)	As percent of GNP ⁴ (percent)
1979.....	\$4,326	45	57	33	10.9	4.5
1985.....	4,733	44	55	32	11.5	4.7
1990.....	5,169	44	56	32	11.9	4.9
1995.....	5,610	44	56	33	12.2	5.0
2000.....	6,098	44	56	33	12.5	5.1
2010.....	7,206	44	56	34	13.8	5.7
2020.....	8,514	44	56	34	16.7	6.9
2030.....	10,061	44	56	34	19.0	7.8
2040.....	11,888	44	56	34	18.4	7.6
2050.....	14,047	44	56	34	17.8	7.3

	<i>Percent</i>
Average medium-range cost (1977-2001).....	11.7
Average medium-range revenue.....	9.9
Average medium-range deficit.....	-1.8
Average long-range cost (1977-2051).....	15.1
Average long-range revenue.....	11.0
Average long-range deficit.....	-4.1

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement. The values in this table refers only to the Administration wage-indexing proposal and exclude the effect of all other benefit and financing modifications in the Administration proposal.

Option 2. Price indexing.—Another alternative would be a system which uses up the 3.8 percent surplus generated by decoupling. This option also involves establishing a new mechanism for automatically adjusting the benefit formula for new retirees. A proposal along these lines was included in a report prepared for the Congressional Research Service by a panel of actuaries and economists (the "Hsiao Report"). This proposal would establish a benefit formula for determining initial social security benefits under which benefits would be based not on the worker's actual average wages but on the average of those wages after an adjustment to compensate for changes in inflation during his working lifetime. This proposal is commonly referred to as "price-indexing."

Using purchasing power as a measure of adequacy, the price-indexing approach would provide for steadily increasing adequacy of initial benefit levels as compared with current benefits though not as much as under option 1. Under the assumptions used for the 1977 Trustees report, the real value of benefits paid to a worker with average wages in each year would rise by nearly 90 percent in the period 1979-2050, from \$4,369 to \$8,325 a year.

Using replacement rates as a measure of adequacy, the price-indexing approach would result in a decline in replacement rates for the next several years. Using the Administration method of measuring replacement ratios, the ratio for the average worker would fall from 45 to 27 percent in the period 1979-2050.

From a cost standpoint, the long-range cost of the system under a price-indexing approach would be approximately equal to the long-range revenues which the system is expected to generate under the tax schedules in present law. The short-range deficit would still require some added financing, but little or no other financing would be needed in the long run unless Congress subsequently decided to improve benefit levels above those which would be automatically generated by the proposal.

TABLE 30.—OPTION 2: PRICE INDEXING

(Proposal recommended by panel of consultants to Congressional Research Service)

- Initial Average Benefit Close to Present Law in 1979
- Workers Earnings Records CPI Indexed
- Benefit Formula Bend Points CPI Indexed
- Benefit Formula Factors Not Indexed

Year	Workers with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate (percent)	Low earnings ² (percent)	High earnings ³ (percent)	As percent of payroll (percent)	As percent of GNP ⁴ (percent)
1979.....	\$4,369	45	59	32	10.9	4.5
1985.....	4,428	41	53	29	11.0	4.5
1990.....	4,515	38	50	28	11.0	4.5
1995.....	4,631	36	47	27	10.8	4.4
2000.....	4,820	34	45	27	10.5	4.3
2010.....	5,263	32	42	27	10.6	4.3
2020.....	5,855	30	40	26	12.0	4.9
2030.....	6,546	28	37	25	12.8	5.3
2040.....	7,361	27	35	24	11.8	4.9
2050.....	8,325	26	32	23	10.9	4.5

	<i>Percent</i>
Average medium-range cost (1977–2001).....	10.8
Average medium-range revenue.....	9.9
Average medium-range deficit.....	–.9
Average long-range cost (1977–2051).....	11.3
Average long-range revenue.....	11.0
Average long-range deficit.....	–.3

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Option 3. Combination proposal.—This option would seek to maintain replacement rates at about current levels for the next 15 years. After that, replacement rates would be allowed to decline as under the price-indexing approach (but not necessarily by the use of price indexing).

In terms of benefit adequacy, the combination option would have continually increasing adequacy in terms of purchasing power. In addition replacement rates would be maintained at existing levels through 1995 and would decline thereafter, slowly at first and then more rapidly after the turn of the century. The cost of this approach would more than use up the 3.8 percent surplus generated by decoupling and would leave a long-range deficit of about 2 percent of payroll. Thus, if Congress chose this option it would have to increase the financing of the system by 2 percent of payroll in order to have a soundly financed program. (At current wage levels, 2 percent of payroll is the equivalent of \$16 billion per year over the 75-year valuation period.)

If the combination option were adopted with the necessary additional financing, present levels of benefit adequacy (by the replacement rate criterion) would be essentially maintained for nearly 20 years. During that period, Congress would have to determine whether or not to provide the additional financing which would be necessary to maintain replacement rates beyond that period.

TABLE 31.—OPTION 3: COMBINATION PROPOSAL

- Initial Average Benefit Close to Present Law in 1979
- Workers Earnings Records Wage Indexed
- Benefit Formula Bend Points Wage Indexed
- Benefit Formula Factors Not Indexed Before 1995; Thereafter Reduced by Half the Gains in Real Earnings

Year	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate (percent)	Low earnings ² (percent)	High earnings ³ (percent)	As percent of payroll (percent)	As percent of GNP ⁴ (percent)
1979.....	\$4,326	45	57	33	10.9	4.5
1985.....	4,938	45	58	33	11.4	4.7
1990.....	5,366	45	58	34	12.0	4.9
1995.....	5,781	45	57	34	12.4	5.1
2000.....	6,016	43	55	33	12.5	5.2
2010.....	6,516	39	50	31	12.9	5.3
2020.....	7,057	36	46	29	14.5	6.0
2030.....	7,643	33	42	26	15.1	6.2
2040.....	8,277	30	39	24	13.5	5.5
2050.....	8,964	28	36	22	12.0	4.9

	Percent
Average medium-range cost (1977-2001).....	11.8
Average medium-range revenue.....	9.9
Average medium-range deficit.....	-1.9
Average long-range cost (1977-2051).....	13.0
Average long-range revenue.....	11.0
Average long-range deficit.....	-2.0

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to worker with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Option 4. Maintaining replacement rates at a level 10 percent below the 1979 rates.—In 1976 the American Council of Life Insurance and the National Association of Manufacturers presented a proposal (developed for them by Robert J. Myers) which would maintain replacement ratios at a level 10 percent below the current levels. This proposal would leave a deficit equal to 2.7 percent of taxable payroll (the equivalent, at current payroll levels, of \$22 billion per year over the 75-year valuation period).

Under this proposal the level of benefits to be maintained for people coming on the benefit rolls would drop from 45 percent (for the hypothetical average worker) to 40 percent in 1979. For any individual, however, a grandfather clause would guarantee a benefit equal to the dollar benefit payable in 1979 under present law. In effect, benefits would be stabilized at the 41 percent level estimated for 1985. The purchasing power of benefits, however, would rise 3½ times in the period 1979 to 2050, from \$3,893 to \$13,141 in 1977 dollars.

This option is actually the same basic approach as embodied in the Administration recommendations except that it uses as a starting point a benefit formula which yields a lower replacement rate than now prevails. Once that formula is established, however, it would utilize wages indexed to reflect changes in wage levels in the same way as the Administration proposal.

TABLE 32.—OPTION 4: WAGE INDEXING AT REDUCED REPLACEMENT RATE LEVEL

- Initial Average Benefit Close to 10 Percent Below Present Law in 1979
- Workers Earnings Records Wage Indexed
- Benefit Formula Bend Points Wage Indexed
- Benefit Formula Factors Not Indexed

Year	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate (percent)	Low earnings ² (percent)	High earnings ³ (percent)	As percent of payroll (percent)	As percent of GNP ⁴ (percent)
1979.....	\$3,893	40	51	30	10.9	4.5
1985.....	4,444	41	52	30	10.9	4.5
1990.....	4,829	41	52	30	11.0	4.5
1995.....	5,249	41	52	31	11.2	4.6
2000.....	5,705	41	52	32	11.3	4.6
2010.....	6,741	41	52	32	12.4	5.1
2020.....	7,966	41	52	33	15.1	6.2
2030.....	9,412	41	52	33	17.1	7.0
2040.....	11,121	41	52	33	16.6	6.8
2050.....	13,141	41	52	33	16.0	6.6

	<i>Percent</i>
Average medium-range cost (1977–2001).....	11.0
Average medium-range revenue.....	9.9
Average medium-range deficit.....	–1.1
Average long-range cost (1977–2051).....	13.7
Average long-range revenue.....	11.0
Average long-range deficit.....	–2.7

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Option 5. Increasing benefit formula by lesser of CPI increase or 55% of wage increase.

An example of an alternative which does not involve decoupling or the use of indexed wages would be to retain the provisions of present law which call for increasing the benefit formula to take account of increases in price levels with a modification limiting the percentage increase to the smaller of (1) the rise in the Consumer Price Index or (2) 55 percent of the rise in average wage levels. Under such a proposal the replacement ratios would be maintained at approximately present levels for all except those workers who had low earnings throughout their working lifetimes (for low-earners, replacement rates would increase). Under the wage-price relationships assumed for the 1977 report of the Trustees the proposal would have the same long-term cost as the wage-indexed proposal recommended by the Carter Administration. That is, it would reduce the cost of the program from 19.2 percent of taxable payroll to 15.1 percent and the average long-term deficit would be 4.1 percent of taxable payroll (at current payroll levels about \$33 billion per year over the 75-year valuation period.)

TABLE 33.—OPTION 5: INCREASING BENEFIT FORMULA BY LESSER OF CPI INCREASE OR 55 PERCENT OF WAGE INCREASE

- Initial Average Benefit Same as in Present Law
- Workers Earnings Records Not Indexed
- Benefit Formula Bend Points Not Indexed
- Benefit Formula Factors Indexed to Smaller of Increase in CPI or 55 Percent of Increase in Wages

Year	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate (percent)	Low earnings ² (percent)	High earnings ³ (percent)	As percent of payroll (percent)	As percent of GNP ⁴ (percent)
1979.....	\$4,415	46	58	35	10.9	4.5
1985.....	5,144	47	59	34	11.4	4.7
1990.....	5,428	46	59	33	12.0	4.9
1995.....	5,760	45	60	33	12.3	5.0
2000.....	6,340	45	66	33	12.5	5.1
2010.....	7,545	46	67	34	13.8	5.7
2020.....	8,906	46	68	34	16.8	6.9
2030.....	10,503	46	68	34	19.0	7.8
2040.....	12,390	46	67	34	18.5	7.6
2050.....	14,619	45	67	34	17.9	7.3

	Percent
Average medium-range cost (1977-2001).....	11.7
Average medium-range revenue.....	9.9
Average medium-range balance.....	-1.8
Average long-range cost (1977-2051).....	15.1
Average long-range revenue.....	11.0
Average long-range balance.....	-4.1

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Reducing the Short-Range Deficit

The goal of short-range financing.—Although the tolerable amount of long-range deficit that should be permitted is subject to debate, the fundamental goal is quite clear: income over the long-range should

come quite close to equaling outgo. The goal of short-range financing is to provide the money needed to pay benefits as they come due and to maintain or build up an "adequate" trust fund.

When the social security program was created in 1935, a fully funded program would have created unmanageable reserves. And until 1960 the law required the trustees of the social security trust funds to report to Congress whenever, in the course of the next five years it was expected that either of the cash benefits trust funds would exceed three times expenditures for any one year. Therefore, the financing adopted was considered a compromise with an interest earning reserve fund which was expected to be larger than needed for contingency purposes but much smaller than would be created under a fully-funded system. This concept was gradually modified and the program developed into one that was financed essentially on a pay-as-you-go basis with a contingency fund equal to about one year's benefit payments.

Prior to the adoption of the automatic cost-of-living benefit increase provisions in 1972, the 1971 Advisory Council had considered the adequacy of the cash benefits trust funds and recommended that the funds be maintained at a level equal to about the benefits payable for the following year. Although it presented no analysis to support the recommendation, the council observed that there was "nothing new" about the recommendation. The council realized that strict adherence to the one-year-of-benefits level would be impractical and that a year-end balance equal to between 75 percent and 125 percent of the total expenditures anticipated in the following year would be adequate.

The cost estimates which accompanied the 1972 amendment providing automatic cost-of-living increases in benefits (P.L. 92-336) were predicated on the assumption that year-end balances in the trust fund should approximately equal expenditures anticipated for the following year. When the Social Security Amendments of 1972 were adopted a few months later, the tax schedule in the law was based on a prediction that the year-end balance in the trust funds would start at about 80 percent of the expenditures anticipated for the following year and in the long-run would rise to 100 percent. Beginning in 1973 economic conditions did not coincide with the assumptions made in 1972, and the ratio of year-end trust fund balances to anticipated expenditures fell rapidly so that at the beginning of 1977 it was 47 percent, less than 6 months benefit payments. It is estimated that by 1981 it will be about 9 percent and, by the start of 1982, less than 1 percent.

There is no clear definition as to what constitutes an adequate reserve for the cash-benefits trust funds. Clearly, the fund should never fall below one month's benefits and a fund equal to one year's benefits would soon be more than \$100 billion. There is some agreement that if the trust fund is to serve as a contingency reserve the funds should be large enough at the start of a recession to carry the program through the recession without any need for a tax rate increase until after the end of the recession. If such a course were followed, taxes would have to be increased at the end of the recession so that the funds could be rebuilt to whatever level seemed necessary to ride out the next recession.

A 1976 paper prepared in the Department of Health, Education, and Welfare¹ concludes that a trust fund of about 60 percent of one year's expenditures would be enough to last through a depression "slightly more severe than the present one without having to raise taxes until unemployment falls below 6 percent."

In his testimony before the House Subcommittee on Social Security the Secretary of Health, Education, and Welfare described the Administration's proposals for financing the cash-benefits programs and indicated that a 50 percent level would be adequate. He said that because of the proposal to provide some general revenue financing to make up for the income lost when unemployment rises to 6 percent or more, the 50 percent level could be reduced to a 35 percent level.

At the end of 1973, the cash-benefits trust funds had a balance of \$44.4 billion which was 73 percent of the 1974 fund outgo. The table below shows the relationship between fund balances at the start of each year since 1970 to fund outgo during the year for the cash-benefits trust funds.

TABLE 34.—CASH-BENEFITS TRUST FUND BALANCES, 1970-81¹

Calendar year:	Start of year trust fund balance	
	Amount (billions)	As a percent of outgo for the year
1970.....	\$34	103
1971.....	38	99
1972.....	40	93
1973.....	43	80
1974.....	44	73
1975.....	46	66
1976.....	44	57
1977.....	41	47
1978.....	35	36
1979.....	29	27
1980.....	21	18
1981.....	12	9

¹ 1977-81 amounts based on intermediate assumptions of 1977 Trustees reports.

Means of meeting the short-range deficit.—There is general agreement that the solution to the short-term financing problems of the cash-benefits programs requires additional funding. There are, however, different views as to the amount of additional funds needed, the timing of the funding and the source of the funds.

The Social Security Administration actuary has pointed out that the short-term financing problems of the disability insurance program are particularly acute. According to his estimates, the DI trust fund

¹ Van de Water, Paul N. and Thompson, Lawrence H. Technical analysis paper, "The Social Security Trust Funds as Contingency Reserves." Office of Income Security Policy, Office of Assistant Secretary of Planning and Evaluation, Department of Health, Education, and Welfare, July 1976.

may not have sufficient funds in the latter part of 1978 to pay benefits as they come due. The estimates for the latter part of 1978 are shown below.

[In billions]

Month in calendar year 1978	Assets at beginning of month	Benefit payments on the 3d of the month
October.....	\$1.7	\$1
November.....	1.1	1
December.....	.6	1

From these estimates it appears that additional funds must be provided to the DI program before the last quarter of 1978. To assure that the fund will have sufficient money to pay benefits in the latter part of 1978, the actuary recommends that the disability program be provided additional funding equivalent to 0.3 percent (over the present 1.2 percent funding level) starting January 1978.

If no new source of funding is provided before 1979, the added funds needed by the disability program would have to be reallocated from the retirement and survivors program. Such reallocation requires enabling legislation. The short-term financing problems would be met under the Administration's proposals by a combination of several approaches including increases in the tax base, use of general revenues, and reallocation of Hospital Insurance funds to the cash-benefits program.

Depending upon the objectives, level of funding desired, economic considerations, and other factors many different combinations of proposals for short-term financing could be devised. The following examples are not proposals in any sense but are examples computed by the Social Security Administration actuary illustrating a range of alternative ways that short-term funding could be provided through the use of tax-rate and tax base increases (and not taking into account any impact of other proposals such as general revenue funding, changed eligibility requirements, or a revised benefit structure.)

The examples have been prepared on the assumption that the ratio of trust fund assets to expenditures would be maintained at about the present level (47 percent) through 1986. Under each example, the assets of the trust funds would drop from their 1977 level of about \$35.5 billion for a few years and then would rise so that by 1986 the balance would range from a low of \$90.2 billion to a high of \$109.7 billion and the ratio of assets to expenditures would be 46 to 49 percent.

Example 1. Single-step tax rate increase.—Under this example the employer and employee tax rate would rise from 4.95 percent to 5.75 percent each in 1979 and the self-employment rate would rise from 7 percent to 8.625 percent. The ratio of trust fund assets to expenditures would fall to 27 percent in 1979 and begin to rise thereafter reaching the current 47 percent in 1984, 48 percent in 1985 and falling to 47 percent in 1986.

Example 2. Several-step tax rate increase.—Like example 1, this would increase income through a tax rate increase only. In the 10-year period taxes would be increased 5 times as shown below:

[In percent]

Year:	Employee, employer, each		Self-employed	
	Present law	Ex- ample 2	Present law	Example 2
1977.....	4.95	4.95	7	7.0
1978.....	4.95	4.95	7	7.0
1979.....	4.95	5.25	7	7.9
1980.....	4.95	5.55	7	8.3
1981.....	4.95	5.55	7	8.3
1982.....	4.95	5.85	7	8.8
1983.....	4.95	5.85	7	8.8
1984.....	4.95	6.10	7	9.2
1985.....	4.95	6.10	7	9.2
1986.....	4.95	6.25	7	9.4

The ratio of trust fund assets to expenditures would fall to 22 percent in 1980 and then begin to rise until it reaches 47 percent in 1986.

Example 3. Single-step increase in tax rate and tax base.—This example shows the effects of increasing the tax base from an estimated \$18,900 in 1979 to \$30,000, with automatic increases thereafter according to the formula in present law. At the same time, the tax rates would increase from 4.95 percent, each, for employees and employers to 5.3 percent and from 7 percent for the self-employed to 7.9 percent. The ratio of trust fund assets to expenditures would fall from 47 percent in 1977 to 27 percent in 1979 and then rise until reaching 47 percent in 1983, 50 percent in 1985, and falling to 49 percent in 1986. At the end of the period, the tax base would have risen to \$47,100 rather than to the \$29,400 estimated for the present law.

*Example 4. Several-step increase in the tax rate and the tax base.—*In this example the tax rate and the tax base are increased in several steps as follows:

	Present law			Example 4		
	Tax rate			Tax rate		
	Em- ployee/ em- ployer, each	Self- em- ployed	Tax base (percent)	Em- ployee/ em- ployer, each	Self- em- ployed	Tax base (percent)
Year:						
1977.....	\$16,500	4.95	7.0	\$16,500	4.95	7.0
1978.....	17,700	4.95	7.0	17,700	4.95	7.0
1979.....	18,900	4.95	7.0	21,900	5.1	7.7
1980.....	20,400	4.95	7.0	26,400	5.25	7.9
1981.....	21,900	4.95	7.0	28,500	5.25	7.9
1982.....	23,400	4.95	7.0	35,400	5.40	8.1
1983.....	24,900	4.95	7.0	37,800	5.40	8.1
1984.....	26,400	4.95	7.0	44,100	5.55	8.3
1985.....	27,900	4.95	7.0	46,500	5.55	8.3
1986.....	29,400	4.95	7.0	49,200	5.55	8.3

Under this schedule, the ratio of trust fund assets would fall to 23 percent in 1980 and then rise to 46 percent in 1986.

*Example 5. Elimination of the taxable earnings limit.—*In this example all of the additional income would come from eliminating the ceiling on the amounts taxable for employers, employees and the self-employed. This would result in the ratio of trust fund assets falling to 27 percent in 1979 and then rising to 48 percent in 1985 and falling to 46 percent in 1986.

Example 6. Eliminations of the taxable earnings limit for employers only and a several-step tax rate increase.—Elimination of the ceiling on taxable earnings for the employer only would not provide sufficient additional income to allow the trust funds to grow to about present levels. Therefore, in addition to eliminating the ceiling for employer this example would increase the tax rates as follows:

[In percent]

Year:	Employee/employer, each		Self-employed	
	Present law	Example 6	Present law	Example 6
1977.....	4.95	4.95	7.0	7.0
1978.....	4.95	4.95	7.0	7.0
1979.....	4.95	5.05	7.0	7.6
1980.....	4.95	5.05	7.0	7.6
1981.....	4.95	5.25	7.0	7.9
1982.....	4.95	5.25	7.0	7.9
1983.....	4.95	5.65	7.0	8.5
1984.....	4.95	5.65	7.0	8.5
1985.....	4.95	5.65	7.0	8.5
1986.....	4.95	5.65	7.0	8.5

Under this schedule, the ratio of trust fund assets to expenditures would fall to 25 percent in 1980 and would then rise to 46 percent in 1986.

The following table compares the provisions and the effects of the 6 examples:

TABLE 35.—ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, UNDER PRESENT LAW AND UNDER THE PROGRAM AS IT WOULD BE MODIFIED BY ALTERNATIVE EXAMPLES OF PROPOSED FINANCING CHANGES, CALENDAR YEARS 1977-86

	Alternative financing examples ³						
	Present law ¹	Rate increase only		Increase in base and rate		Elimination of base for—	
		Single step	Several steps	Single step	Several steps	Employers and employees	Employers only
CONTRIBUTION AND BENEFIT BASE							
Calendar year:							
1977.....	\$16,500	\$16,500	\$16,500	\$16,500	\$16,500	\$16,500	\$16,500
1978.....	17,700	17,700	17,700	17,700	17,700	17,700	17,700
1979.....	18,900	18,900	18,900	30,000	21,900	.....	18,900
1980.....	20,400	20,400	20,400	32,400	26,400	.....	20,400
1981.....	21,900	21,900	21,900	34,800	28,500	.....	21,900
1982.....	23,400	23,400	23,400	37,200	35,400	.....	23,400
1983.....	24,900	24,900	24,900	39,600	37,800	.....	24,900
1984.....	26,400	26,400	26,400	42,000	44,100	.....	26,400
1985.....	27,900	27,900	27,900	44,400	46,500	.....	27,900
1986.....	29,400	29,400	29,400	47,100	49,200	.....	29,400

OASDI CONTRIBUTION RATES FOR
EMPLOYEES AND EMPLOYERS, EACH
(PERCENT)

Calendar year:							
1977.....	4.95	4.95	4.95	4.95	4.95	4.95	4.95
1978.....	4.95	4.95	4.95	4.95	4.95	4.95	4.95
1979.....	4.95	5.75	5.25	5.30	5.10	4.95	5.05
1980.....	4.95	5.75	5.55	5.30	5.25	4.95	5.05
1981.....	4.95	5.75	5.55	5.30	5.25	4.95	5.25
1982.....	4.95	5.75	5.85	5.30	5.40	4.95	5.25
1983.....	4.95	5.75	5.85	5.30	5.40	4.95	5.65
1984.....	4.95	5.75	6.10	5.30	5.55	4.95	5.65
1985.....	4.95	5.75	6.10	5.30	5.55	4.95	5.65
1986.....	4.95	5.75	6.25	5.30	5.55	4.95	5.65

INCOME (IN BILLIONS)

Calendar year:							
1977.....	\$82.1	\$82.1	\$82.1	\$82.1	\$82.1	\$82.1	\$82.1
1978.....	90.7	90.7	90.7	90.7	90.7	90.7	90.7
1979.....	99.5	114.6	105.2	114.4	105.8	113.2	108.2
1980.....	108.9	128.3	122.6	129.6	123.1	129.5	120.4
1981.....	117.4	139.7	133.8	141.1	134.7	140.9	135.4
1982.....	125.2	150.5	151.0	151.8	151.1	151.4	145.8
1983.....	132.9	161.5	162.9	162.8	163.3	162.2	167.2
1984.....	140.7	172.8	181.4	174.1	180.7	173.3	180.4
1985.....	148.4	184.3	194.9	185.7	194.2	184.7	193.0
1986.....	156.2	196.3	213.0	198.0	207.7	196.8	206.3

TABLE 35.—ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, UNDER PRESENT LAW AND UNDER THE PROGRAM AS IT WOULD BE MODIFIED BY ALTERNATIVE EXAMPLES OF PROPOSED FINANCING CHANGES, CALENDAR YEARS 1977-86—Continued

	Alternative financing examples ²						
	Present law ¹	Rate increase only		Increase in base and rate		Elimination of base for—	
		Single step	Several steps	Single step	Several steps	Employers and employees	Employers only
OUTGO (IN BILLIONS)							
Calendar year:							
1977.....	\$87.7	\$87.7	\$87.7	\$87.7	\$87.7	\$87.7	\$87.7
1978.....	97.5	97.5	97.5	97.5	97.5	97.5	97.5
1979.....	107.4	107.4	107.4	107.4	107.4	107.4	107.4
1980.....	118.0	117.8	117.9	117.9	118.0	118.0	117.9
1981.....	128.9	128.7	128.8	128.8	128.9	128.9	128.8
1982.....	140.1	139.9	140.0	140.1	140.1	140.3	139.9
1983.....	152.1	151.8	151.8	152.2	152.1	152.5	151.8
1984.....	165.1	164.9	164.8	165.4	165.3	166.0	164.8
1985.....	179.2	179.0	178.9	179.8	179.6	180.7	178.9
1986.....	194.4	194.1	194.0	195.3	195.1	196.5	194.0

NET INCREASE IN FUNDS (IN BILLIONS)

Calendar year:							
1977.....	-\$5.6	-\$5.6	-\$5.6	-\$5.6	-\$5.6	-\$5.6	-\$5.6
1978.....	-6.9	-6.9	-6.9	-6.9	-6.9	-6.9	-6.9
1979.....	-7.9	7.2	-2.2	6.9	-1.7	5.8	.8
1980.....	-9.1	10.4	4.7	11.7	5.1	11.5	2.5
1981.....	-11.5	11.0	5.0	12.3	5.8	12.0	6.6
1982.....	-14.9	10.6	11.1	11.7	10.9	11.1	5.9
1983.....	-19.2	9.7	11.1	10.6	11.2	9.6	15.4
1984.....	-24.4	8.0	16.6	8.7	15.5	7.3	15.6
1985.....	-30.9	5.3	16.0	5.9	14.6	4.0	14.1
1986.....	-38.2	2.2	19.0	2.7	12.7	.2	12.3

ASSETS AT END OF YEAR (IN BILLIONS)

Calendar year:							
1977.....	\$35.5	\$35.5	\$35.5	\$35.5	\$35.5	\$35.5	\$35.5
1978.....	28.6	28.6	28.6	28.6	28.6	28.6	28.6
1979.....	20.7	35.8	26.4	35.5	27.0	34.4	29.4
1980.....	11.6	46.2	31.1	47.2	32.1	45.9	31.9
1981.....	.1	57.2	36.0	59.5	37.9	57.9	38.4
1982.....	-14.8	67.8	47.1	71.2	48.8	69.0	44.3
1983.....	-34.0	77.5	58.2	81.8	60.0	78.6	59.0
1984.....	-58.4	85.4	74.8	90.5	75.5	86.0	74.6
1985.....	-89.3	90.7	90.7	96.4	90.1	90.0	88.7
1986.....	-127.4	92.9	109.7	99.1	102.8	90.2	100.9

TABLE 35.—ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, UNDER PRESENT LAW AND UNDER THE PROGRAM AS IT WOULD BE MODIFIED BY ALTERNATIVE EXAMPLES OF PROPOSED FINANCING CHANGES, CALENDAR YEARS 1977-86—Continued

	Alternative financing examples ²						
	Present law ¹	Rate increase only		Increase in base and rate		Elimination of base for—	
		Single step	Several steps	Single step	Several steps	Employers and employees	Employers only
ASSETS AT BEGINNING OF YEAR AS A PERCENTAGE OF OUTGO DURING YEAR							
Calendar year:							
1977.....	47	47	47	47	47	47	47
1978.....	36	36	36	36	36	36	36
1979.....	27	27	27	27	27	27	27
1980.....	18	30	22	30	23	29	25
1981.....	9	36	24	37	25	36	25
1982.....	(³)	41	26	42	27	41	27
1983.....	(⁴)	45	31	47	32	45	29
1984.....	(⁴)	47	35	49	36	47	36
1985.....	(⁴)	48	42	50	42	48	42
1986.....	(⁴)	47	47	49	46	46	46

¹ Estimated operations in calendar years 1979-86 under present law are theoretical because it is estimated that the DI trust fund will be exhausted in 1979 and that the OASI trust fund will be exhausted in 1983.

² Each set of financing changes also includes an increase in the contribution rate for self-employed persons to 1½ times the rate for employees.

³ Less than 0.5 percent.

⁴ Funds exhausted in 1982.

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 Trustees report.

IV. CHARTS ON SOCIAL SECURITY FINANCING

Chart A

**Sensitivity of Cost Estimates to
Various Assumptions (Cost as a percent
of taxable payroll)**

	<u>Short range (25 yrs.)</u>	<u>Long range (75 yrs.)</u>
Trustees' assumptions	12.24%	19.19%
Mortality improvement:		
None	-0.09%	-0.93%
18%*	--	--
33%	+0.09%	+0.81%
Children per woman:		
1.7	-0.02%	+1.81%
1.9	--	+0.84%
2.1*	--	--
2.3	+0.02%	-0.74%
Annual price increase:		
2%	-0.08%	-2.61%
4%*	--	--
6%	+0.10%	+2.77%
Productivity growth:		
1%	+0.95%	+5.01%
1 $\frac{3}{4}$ %*	--	--
2 $\frac{1}{2}$ %	-0.82%	-3.55%

*Amount assumed by Trustees

Chart A

Sensitivity of Cost Estimates to Various Assumptions

The long-range costs of the social security program are measured in terms of the social security tax rate that would be necessary to pay all of the benefits which will be due. Over the next 75-year period, the average social security tax rate will, under the provisions of present law, be 10.99 percent. What the program will cost, however, depends upon the interaction of various demographic and economic factors which are difficult to predict with any degree of confidence. The 1977 Trustees report indicates that the cost of the program over the next 75 years could range from 14.87 percent of taxable payroll under a somewhat optimistic set of economic and demographic assumptions to 27.08 percent under a somewhat pessimistic set of assumptions. An intermediate set of assumptions yields an estimated cost of 19.19 percent or 8.20 percent more than the average tax rate now in the law.

Over the next 25 years, the average tax rate will be 9.90 percent and the average cost will, under the Trustees' estimates, range from 11.57 percent under optimistic assumptions to 13.14 percent under pessimistic assumptions, with an intermediate estimate of 12.24 percent.

Chart A, using the intermediate set of assumptions as a base, shows how the estimated costs over the next 25 and 75 years would change if one of the basic demographic or economic factors were varied while the other factors remained the same. While all of these factors are shown to have a significant impact on the cost of the program, particularly over the long-range period, it is the economic factors of inflation and real-wage growth that most strongly influence the cost estimates.

The extreme sensitivity of the program to the economic factors results from the operation of the existing mechanism for automatically increasing the formula for computing initial benefits as the cost-of-living rises. Since benefit levels rise in response to price increases but the program's income is tied to wage levels, a change in the relationship between wage and price increases will have a disproportionate impact on the actuarial balance of the system. Similarly a change in the rate of inflation alone will cause a large change in program costs.

Formula on which the Social Security Benefit Table is Based: Relation between Average Monthly Earnings and Benefits

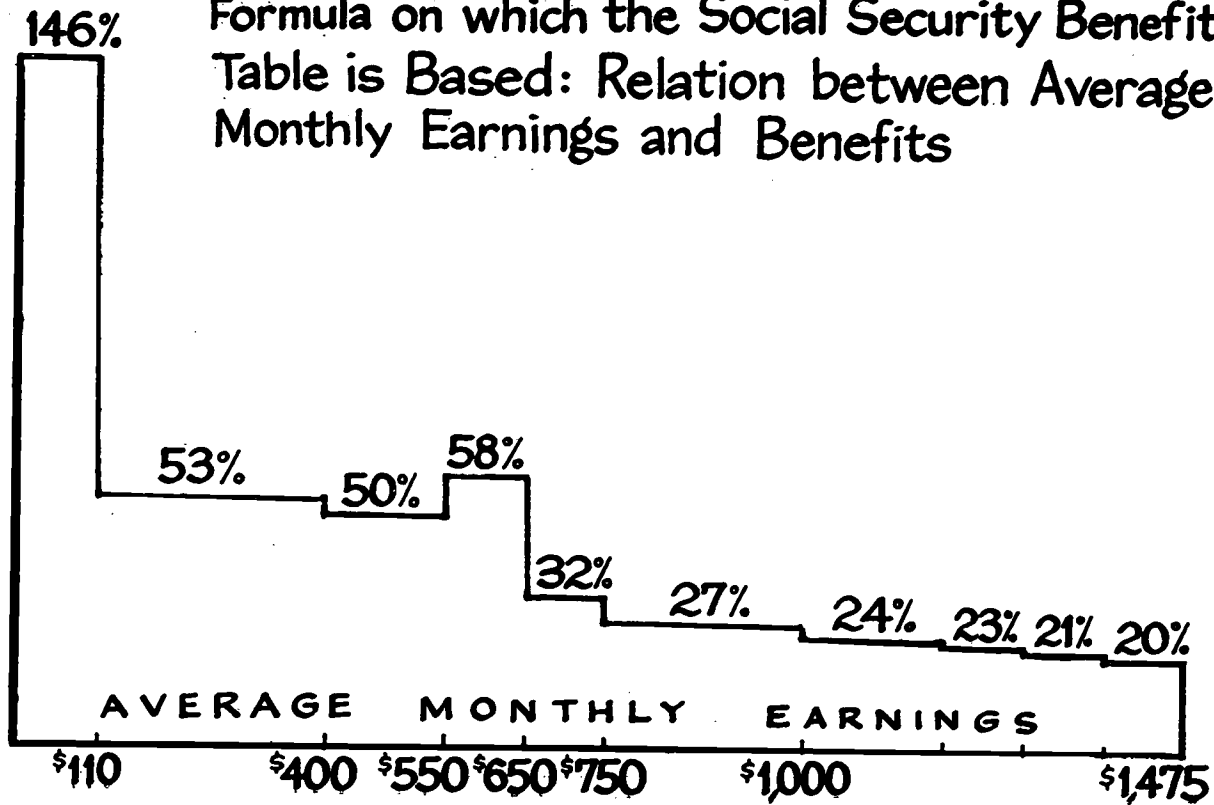


Chart B

Formula on Which the Social Security Benefit Table Is Based: Relation Between Average Monthly Earnings and Benefits

Under existing law, a person gets an initial social security benefit which is based on his average monthly earnings under the program during his working lifetime. (After 1990, a working lifetime will mean the 35 years of highest earnings; because social security coverage did not become fully effective until the 1950s, a smaller number of years are used for those retiring now—21 years for persons reaching age 62 in 1977, 22 years for persons reaching age 62 in 1978, etc.). For each level of average monthly earnings, a benefit table in the law specifies a particular monthly benefit amount.

Chart B shows the approximate formula which underlies the benefit table in the law as of June 1977. Because persons who have had low wages throughout their lifetimes are presumed to have less other sources of retirement income and also to need, for basic necessities, a greater percentage of their pre-retirement income, the benefit table is heavily weighted at the low-income end. Thus, for the first \$110 of average monthly wages a benefit is provided which approaches 1½ times those wages. At higher wage levels, the percentage replacement declines sharply except for a bulge in the \$550 to \$650 range. (The benefit formula as now structured appears to give the greatest advantage not to the long-time, low-income worker but to the worker who has had only marginal attachment to the social security program. The long-time, low-income worker will generally have average monthly earnings well above \$110 which is the upper limit of the most highly weighted factor in the formula.)

Although the benefit table now provides for benefits at average monthly wage levels up to nearly \$1,500, it is not yet possible for retirees to have lifetime average monthly wages under social security at the higher levels. At present, a worker retiring with maximum wages in all years will have average monthly wages at approximately the \$650 level.

In future years, if the benefit formula shown in chart B remained static, benefit levels—in terms of percentage replacement—would become less and less adequate as retirees average wage levels increased and moved them into the lower percentage factors shown on the right half of the chart. Existing law offsets this impact by increasing each of the percentages shown on the chart by the annual percentage increase in the Consumer Price Index. However, there is no mechanism in existing law for maintaining the relationship between the two factors which determine benefit amounts—average wage levels and the percentages applied to those wage levels to determine benefit amounts. In other words, the working population moves along the bottom line of the chart according to the way in which wage levels in the economy grow while the benefit computation percentages increase according to the way price levels grow. The results, in terms of benefit levels and therefore program costs, can vary greatly under differing predictions of the relationship in the growth of these two factors.

Social Security Benefits Upon Retirement as a Percent of Earnings in the Year Before Retirement: Present Law

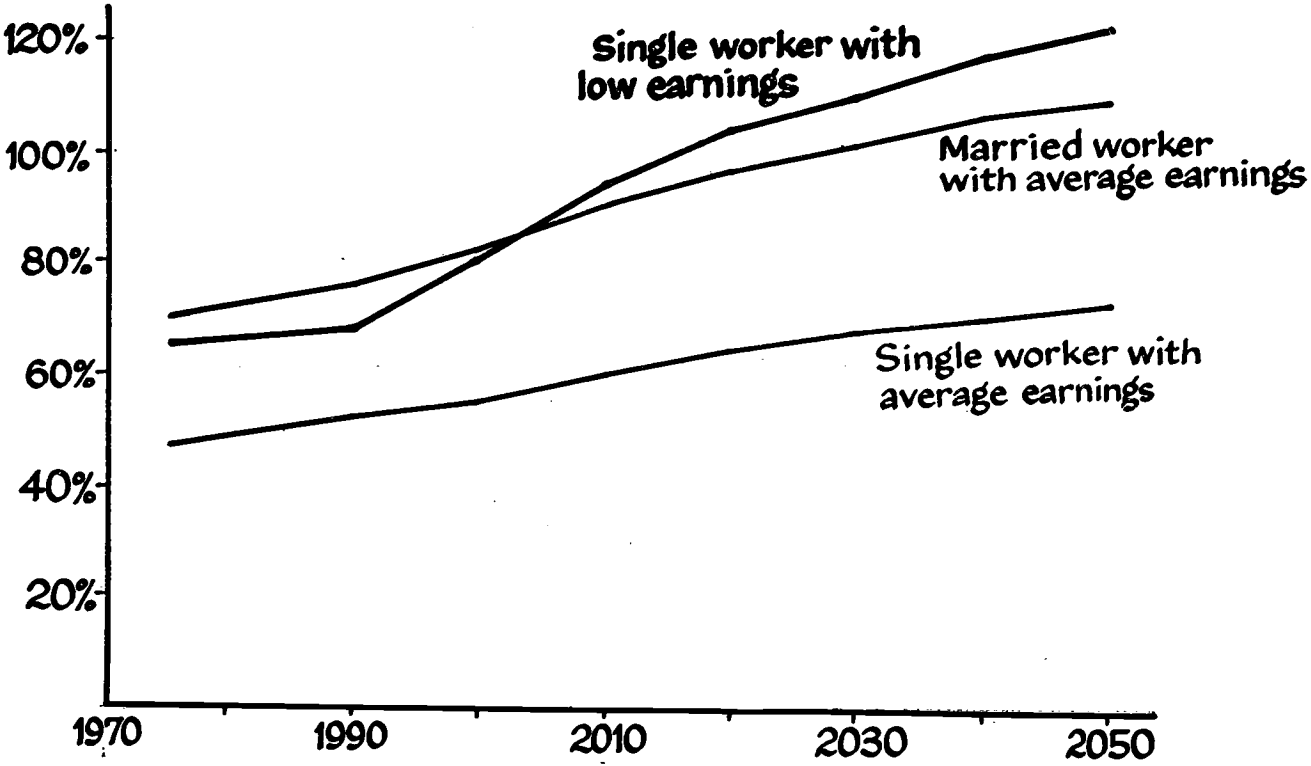


Chart C

Chart C

Social Security Benefits Upon Retirement as a Percent of Earnings in the Year Before Retirement: Present Law

As described in the preceding chart, the benefits payable to new retirees in the future will be determined by the interaction of two factors—wage level increases and price increases. Chart C shows the result of that interaction under the intermediate economic assumptions in the 1977 Trustees' report. These assumptions are that wage levels will increase by 5.75 percent per year and price levels will increase by 4 percent per year (once beyond the short-range period).

Under these intermediate assumptions, benefit levels when measured as a percentage of earnings in the year before retirement will increase sharply in the future. Because of the higher benefit percentages at the lower end of the table, this phenomenon is most pronounced for the lower income workers, but it also will result in much higher benefits for average and higher income workers. By 2040, the benefits for a single worker with low earnings and the husband-wife benefit for a married worker with average earnings will be more in the year they first retire than their earnings immediately prior to retirement. A worker with average earnings retiring in 1970 got a benefit equal to 34 percent of his prior year earnings. By 1975 that had increased to 43 percent and by 2050 it is projected to reach nearly 70 percent. It should be noted that these percentages would be even higher if calculated as a percent of net earnings after expenses such as payroll and other withholding taxes.

This rapid increase in benefit levels in relation to earnings accounts for a substantial proportion of the projected increased cost of the social security program.

Social Security Cash Benefits: Cost as a Percent of Payroll

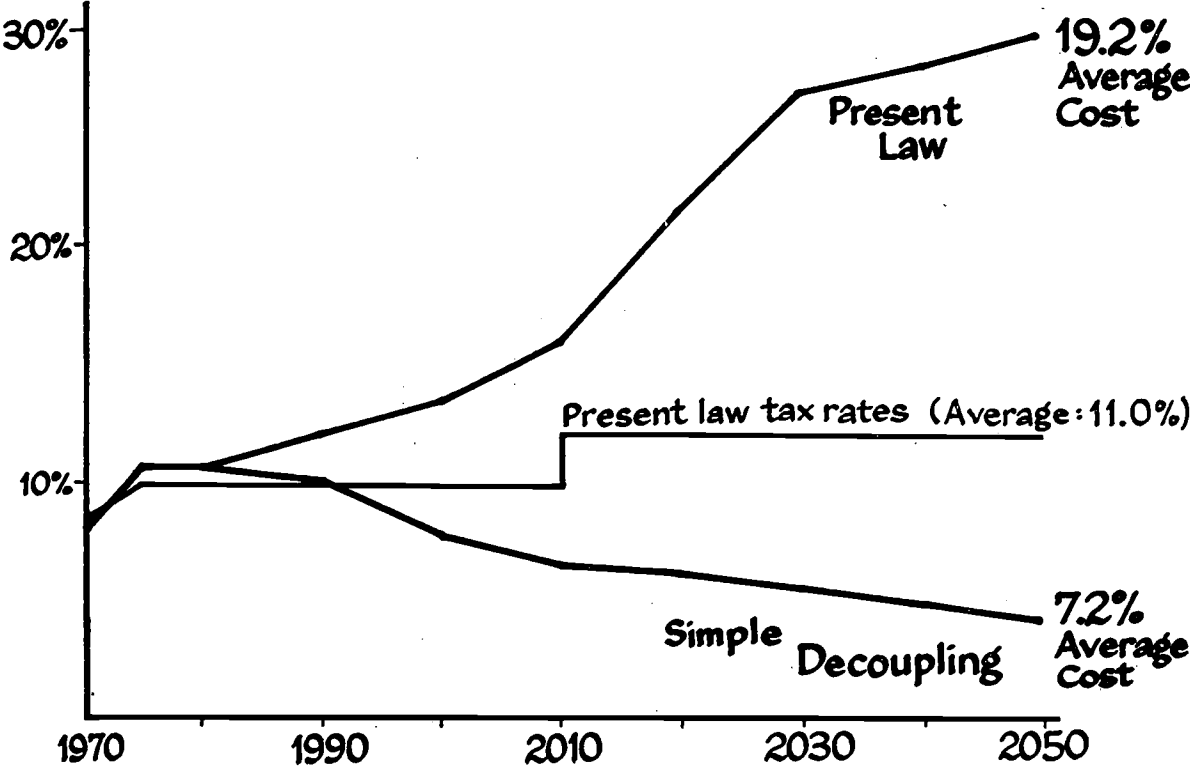


Chart D

Chart D

Social Security Cash Benefits: Cost as a Percent of Payroll: Present Law

The social security payroll tax paid by employers and employees is now set at a rate of 9.9 percent (combined) of taxable wages. The law now also provides for that rate to increase to 11.9 percent in the year 2011. Over the next 75 years, the rate will average 10.99 percent.

The cost of the program, however, is now somewhat more than the current 9.9 percent tax rate and is projected to grow to 27.51 percent by the year 2055. Over the next 75 years, the average cost of the program will be 19.19 percent of taxable payroll or 8.20 percent more than the average tax rate.

The cost of the program grows so rapidly because the law contains an automatic mechanism for raising the level of benefits paid to new retirees as the Consumer Price Index increases. If the law were amended so that benefits would continue to be adjusted for inflation after an individual retires but no further adjustment were made in the formula for determining benefits for new retirees, the cost of the program would be substantially reduced. This approach is called "simple decoupling" in that the inflation adjustment mechanism which now applies both to benefits after retirement and to the initial benefit formula would be made applicable only to benefits after retirement.

Under simple decoupling, the cost of the program as a percent of taxable payroll would begin to decline almost immediately and would reach a level of 4.3 percent of payroll by the year 2050. Over the 75 year period, the annual average cost of the program would be 7.2 percent of payroll or 3.8 percent less than the tax rate now in the law. Although simple decoupling would produce a significant long-range actuarial surplus, there would still be need for added financing in the next few years to maintain the short-range cash flow. In addition, simple decoupling would lead to declining adequacy of benefit levels when measured as a percent of pre-retirement earnings or when measured in terms of purchasing power. In order to restore and maintain the adequacy of the benefits after decoupling, some further changes in the law would have to be made. The next several charts illustrate various aspects of alternative possibilities.

Social Security Cash Benefits: Cost as a Percent of Payroll

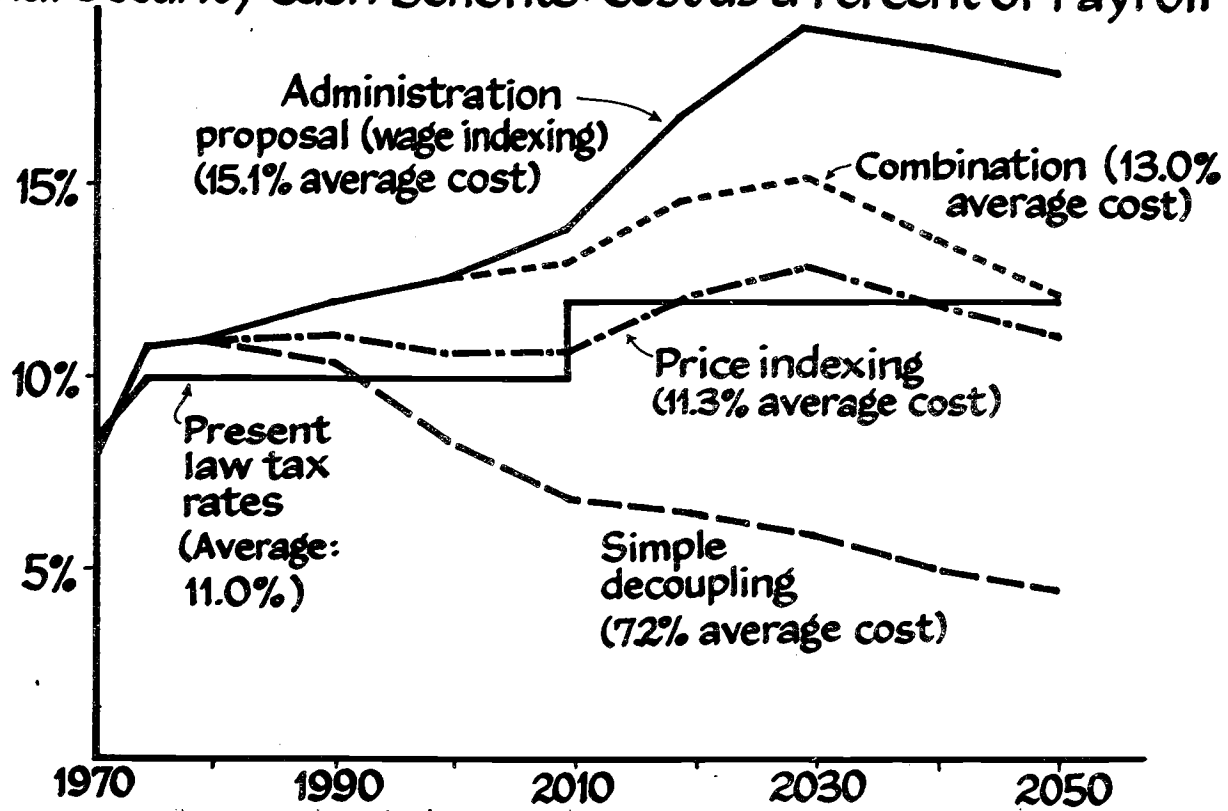


Chart E

Social Security Cash Benefits: Cost as a Percent of Payroll: Proposals

Chart E shows how the cost of the social security program would be affected by a number of alternative options for revising the benefit formula.

Simple decoupling as described on Chart D would reduce the long-range average cost of the program by 12 percent of payroll to a level of 7.2 percent, but would lead to declining benefit adequacy for future retirees.

The proposal is recommended by the Administration (which was also endorsed by the prior Administration and the 1974 Social Security Advisory Council) is called wage-indexing. This approach adopts a new benefit formula in which the percentage factors are not changed periodically but in which indexed rather than actual average wages are used in applying the formula. Under the Administration proposal, wages would be indexed according to changes which took place in national wage levels during the individual's working years. This approach would reduce the 8.2 percent deficit to 4.1 percent. Put another way, it would use up the 3.8 percent surplus from decoupling and would create a new deficit equal to 4.1 percent of taxable payroll. (Other Administration proposals included in their total financing package would reduce this deficit to 1.9 percent of taxable payroll.)

Another option would be to decouple but then substitute a new mechanism for automatically adjusting benefit levels for new retirees designed in such a way as to use up the 3.8 surplus from decoupling without requiring any additional new financing. One such approach called price indexing was designed by a consultant panel to the Congressional Research Service (Hsiao panel). Their proposal would adopt a new benefit formula for determining initial benefit amounts based on indexed rather than actual average wages. Wages would be indexed to changes in price levels during the individual's working years.

A combination approach would be possible following the wage-indexing approach for about 15 years and then introducing elements which would reduce costs by causing benefits to rise at a lesser rate than under the Administration proposal. Such an approach would be designed to use up the surplus generated by decoupling and would reduce the current deficit to 2.0 percent of payroll. In order to restore the program to a sound financial status, such an approach would have to be combined with additional measures to provide new financing of about the same magnitude as those proposed by the Administration.

Social Security Benefits Upon Retirement as a Percent of Earnings in the Year Before Retirement

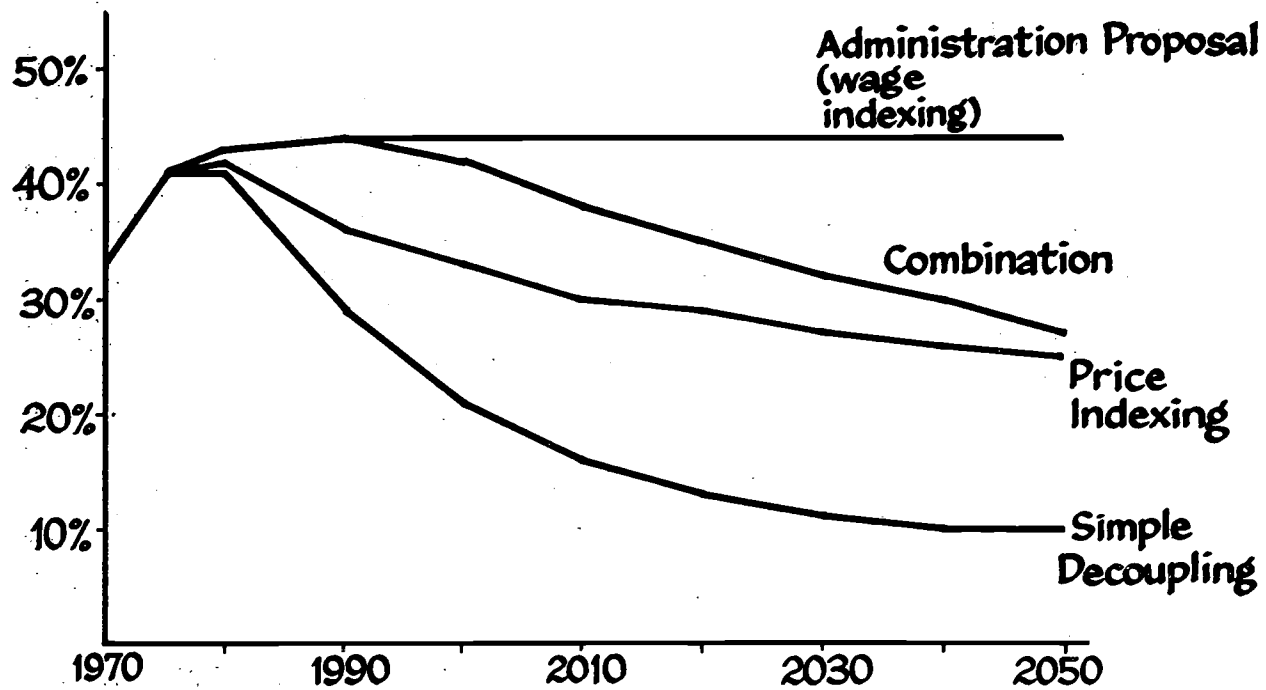


Chart F

Social Security Benefits Upon Retirement as a Percent of Earnings in the Year Before Retirement: Proposals

Chart C demonstrated that the benefits paid under present law will rise over time when measured as a fraction of earnings in the year before retirement. Chart F illustrates the effect of several decoupling proposals on the relationship of benefits at time of retirement to wages just before retirement.

In 1955, the benefits paid to a worker with average earnings were about 31 percent of his earnings and by 1970 they had risen 3 percentage points to 34 percent. In the next 5 years, the rise was 9 percentage points to about 43 percent and as shown in chart C this trend could be expected to continue on into the future.

One of the purposes of the various proposals is to cut off the trend of benefits to represent an increasing part of preretirement earnings. The wage indexed proposal recommended by the Administration would maintain future benefits at about the present level in relationship to earnings in the year before retirement. The other proposals would allow the replacement rates to drop. For a worker with average earnings in all years, the ultimate percentage of preretirement earnings represented by benefits would be 44 percent under wage indexing, 28 percent under the combination plan, 26 percent under price indexing, and 10 percent under simple decoupling. These percentages compare with the 68 percent rate projected under present law.

Purchasing Power of Social Security Cash Benefits (Worker with Average Earnings)

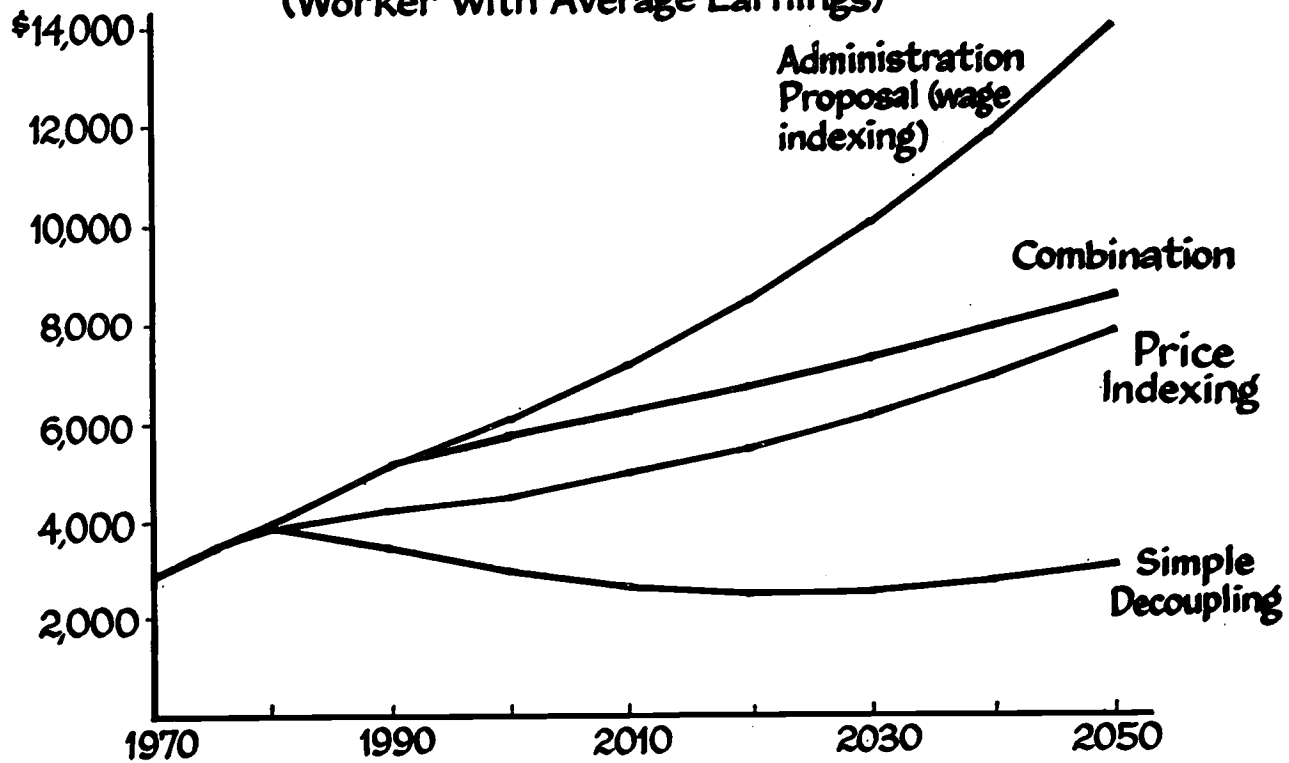


Chart G

Chart G

Purchasing Power of Social Security Cash Benefits

Under the present law the worker who has average earnings in every year can expect to get an annual benefit of \$4,415 in 1979 which in constant dollars will rise to \$21,830 by 2050. This large increase is the result of the automatic benefit increase mechanism in present law; and the various proposals are intended to reduce it to levels which can be financed. Under three of the four proposals shown in the chart, the purchasing power of benefits—measured in 1977 dollars—rises from the \$4,415 estimated for 1979. Under the simple decoupling proposal shown by the bottom line purchasing power falls to \$3,235 by 2050. This contrasts with the rise to \$14,047 under the wage indexing proposal, to \$8,964 under the combination proposal, and to \$8,325 under the price indexing proposal.

Thus, all of the indexing proposals do more than make benefits inflation proof and provide future retirees with improved purchasing power but with a lesser increase than would be provided under present law.

Social Security Cash Benefits: Cost as a Percent of Gross National Product

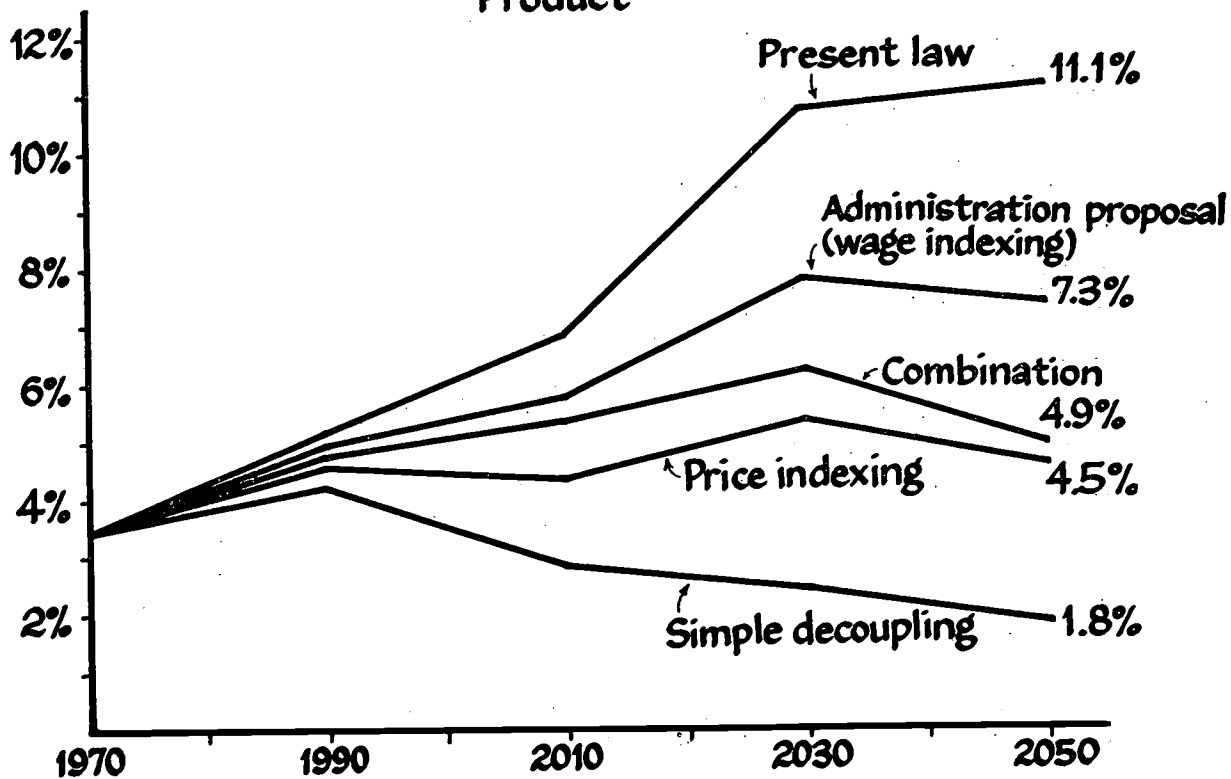


Chart H

Social Security Cash Benefits: Cost as a Percent of Gross National Product

The portion of national wealth devoted to the social security cash benefits programs has been increasing over time. In 1955 about 1.3 percent of the gross national product (GNP) was devoted to the program. In the following 15 years, the amount increased so that it was 3.4 percent in 1970. In the next 5 years it rose to 4.6 for 1975. The growth in the percentage of GNP devoted to social security arises from a variety of factors such as the growth in coverage under the program, increasing benefit levels, and changes in the sizes of the beneficiary population in comparison with the total population.

Chart H shows how the cost of the present program will increase over time and how it would change under various proposals to change the benefit computation procedures. Under present law and under the alternatives the cost of the program as a percent of GNP will increase until about 1990 when it will range from 5.1 percent under present law to 4.2 percent under the simple decoupling concept. The costs of the other three proposals would be 4.9 percent for the wage indexing and combination proposals and 4.5 percent for the price indexing proposal.

After 1990 the cost of the proposals changes in different directions depending on the type of indexing used and how it relates to the anticipated growth in national wealth. The sharpest increase comes under the present law. This is, of course, in sharp contrast to the reduction in cost which results from the non-indexed simple decoupling which allows relative benefit levels to fall while national wealth increases.

The wage and price indexing proposals show increasing costs as a percentage of the GNP until about 2030 because the indexing formulas devote a part of increasing national wealth to the programs and because the ratio of beneficiaries to working population grows throughout the period.

In 2030 the portion of GNP going to the cash benefits program would be about 10.7 percent under present law, 7.8 percent under wage indexing, 5.3 percent under price indexing, and 2.4 percent under simple decoupling.

Chart I

Social Security Trust Funds (Balances in billions of dollars)

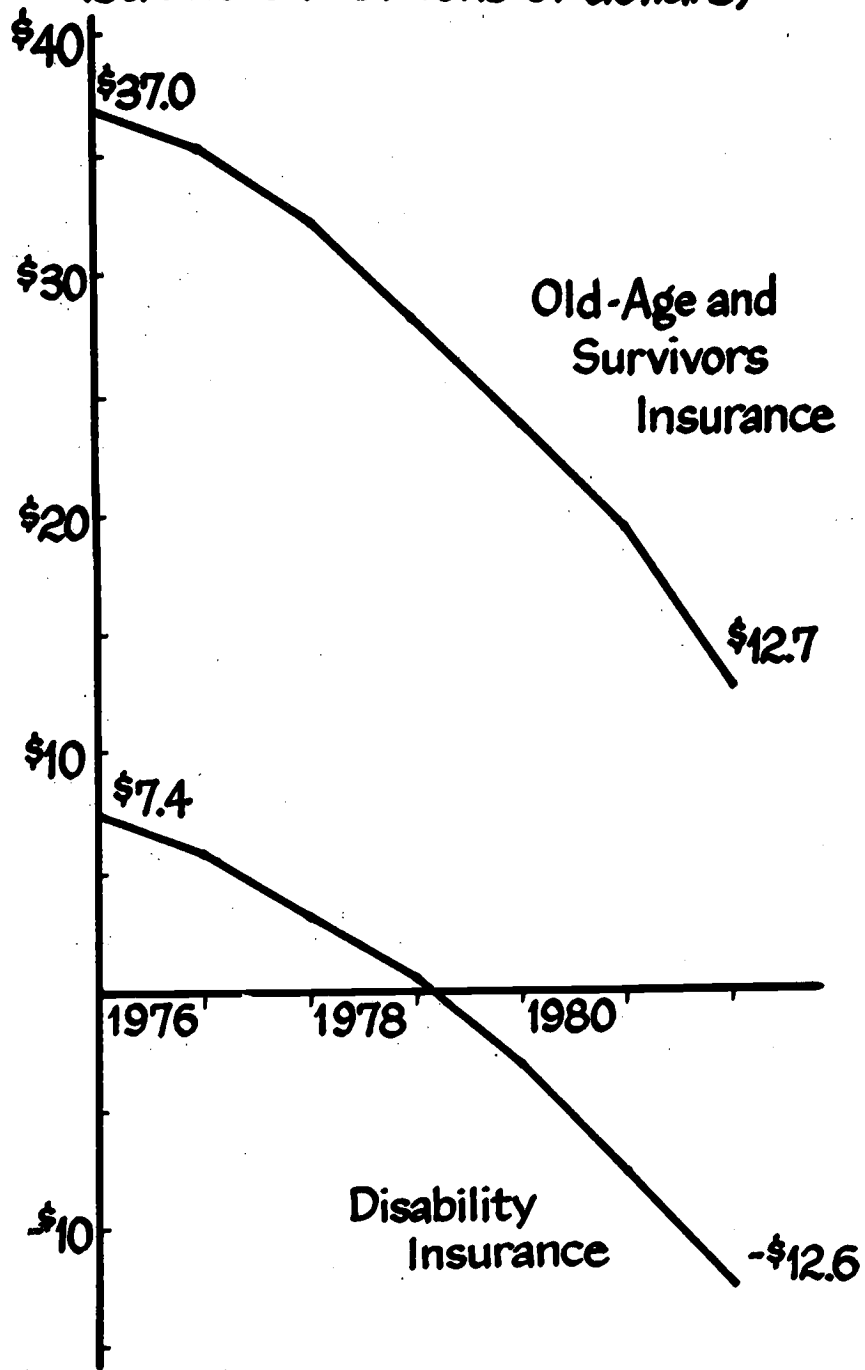


Chart I

Social Security Trust Funds: Balances in Billions of Dollars

Chart I shows the rapid decline in the cash benefits trust funds which will occur in the near future if no additional money is provided. At the start of the period the OASI fund has a reserve equal to benefit payments for about 6 months and the DI fund for about 8 months. The balances in both funds fall quickly and by 1981 the OASI fund equals about 2 months benefit payments. The DI fund runs out of money in 1979. However, even before running out of money in 1979, the DI fund would have some cash flow problems, and new funding will be needed to pay benefits for the latter part of 1978 when due on the 3rd of the month because taxes to pay the benefits will not be collected until later in the month.

Taken together, the two funds could continue to pay benefits through 1981. However, legislation will be needed in any case since present law does not permit the transfer of the money needed from the OASI fund to the DI fund.

APPENDIX A

ACTUARIAL ASSUMPTIONS

Actuarial Assumptions

The common measure of the financial soundness of the social security cash benefits program is the actuarial cost estimates presented each year in the report of the Trustees. Two basic estimates are made, short-term estimates covering the next 5 years and long-term estimates covering the 70-year period beginning where the short-term estimates leave off.

The short-term estimates.—The short-time estimates essentially picture the cash flow over a 5-year period based on assumptions as to what economic conditions (inflation, unemployment, and wage levels) will prevail in each of the years covered by the estimate.

The long-term estimates.—The long-term estimates, unlike the short-term estimates, are not presented in dollar terms. Rather they are in terms of percent of taxable payroll. (At the present payroll level each 1 percent of taxable payroll amounts to about \$8.0 billion.) The current long-term deficit of 8.2 percent of taxable payroll points to the need for major changes in the social security program. However, in evaluating the estimates one should bear in mind that estimates over a 75-year future period, however reasonable they may appear at the time they are made, are not precise predictions of future events. For example, a major assumption in estimating the cost of the social security program is that the present law will remain unchanged over the period covered by the estimates.

Prior to 1972, the long-range estimates were made on a level-cost basis that assumed earnings and benefit levels would not change over the next 75 years. In 1972, when automatic cost-of-living increases in benefits were authorized, the method of making cost estimates was changed. Under the revised procedures, the actuarial projections assume an increase in both wages and prices in future years. These assumptions are the result of the provisions in the law under which benefits can increase each year as the Consumer Price Index rises, and the tax base rises in proportion to the rise in average taxable earnings. In 1972 it was estimated that with the automatic cost-of-living increases and the automatic increases in the tax the program would remain in exact actuarial balance.

The former level-cost assumptions were generally considered to be "conservative" in view of the probability that wage levels would continue to rise in the future. Thus, when the cost was expressed in terms of a percentage of covered payroll, there was an implicit allowance for an increase in benefit levels. Moreover, Congress did act from time to time to use the actuarial surpluses (which resulted from rising wage levels) to finance part of the cost of the various benefit increases. As a result, large amounts of surplus funds were not accumulated and for all practical purposes the program was financed largely on a pay-as-you-go basis—that is, income in most years approximated outgo.

TABLE 36.—COMPARISON OF AVERAGE EXPENDITURES AND TAXES FOR OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM UNDER PRESENT LAW AS PERCENT OF TAXABLE PAYROLL UNDER ALTERNATIVES I, II, AND III

[In percent]

Item	Alternative—		
	I	II	III
1st 25-yr period (1977-2001):			
Expenditures as percent of taxable payroll.....	11.57	12.24	13.14
Tax rate in law.....	9.90	9.90	9.90
Difference.....	-1.67	-2.34	-3.24
2d 25-yr period (2002-26):			
Expenditures as percent of taxable payroll.....	15.12	18.85	24.51
Tax rate in law.....	11.18	11.18	11.18
Difference.....	-3.94	-7.67	-13.33
3d 25-yr period (2027-51):			
Expenditures as percent of taxable payroll.....	17.93	26.47	43.61
Tax rate in law.....	11.90	11.90	11.90
Difference.....	-6.03	-14.57	-31.71
Total 75-yr period (1977-2051):			
Expenditures as percent of taxable payroll.....	14.87	19.19	27.08
Tax rate in law.....	10.99	10.99	10.99
Difference.....	-3.88	-8.20	-16.09

The three alternative sets of assumptions underlying the costs estimates in the 1977 Trustees' report (see table 36 above) are those which the Trustees call "optimistic" (alternative I), "intermediate" (alternative II) and "pessimistic" (alternative III). The report goes on to warn that while "it does not seem unreasonable to assume that actual experience will fall within the range defined by alternatives I and III . . . there can be no guarantee that this will be the case because of the high degree of uncertainty in economic and demographic forecasting." The values of the major factors in each set of assumptions are shown in the following table:

TABLE 37.—VALUES OF SELECTED ECONOMIC AND DEMOGRAPHIC FACTORS UNDER 3 ALTERNATIVE SETS OF ASSUMPTIONS, CALENDAR YEARS 1977-2051

Calendar year	Percentage increase in average annual—			Average annual unemployment rate	Total fertility rate ²
	Wages in covered employment	CPI	Real wages ¹		
Alternative I:					
1977.....	8.4	6.0	2.4	7.1	1,709.9
1978.....	8.2	5.3	2.9	6.3	1,685.9
1979.....	7.9	4.6	3.3	5.6	1,662.0
1980.....	6.6	4.1	2.5	5.0	1,670.2
1981.....	5.8	3.4	2.4	4.5	1,710.5
1982.....	5.3	3.0	2.3	4.5	1,750.9
1983.....	5.25	3.0	2.25	4.5	1,791.2
1984 and later..	5.25	3.0	2.25	4.5	³ 2,300.0
Alternative II:					
1977.....	8.4	6.0	2.4	7.1	1,709.9
1978.....	8.1	5.4	2.7	6.3	1,685.9
1979.....	7.8	5.3	2.5	5.7	1,662.0
1980.....	7.1	4.7	2.4	5.2	1,662.9
1981.....	6.4	4.1	2.3	5.0	1,688.8
1982.....	6.0	4.0	2.0	5.0	1,714.7
1983.....	5.75	4.0	1.75	5.0	1,740.5
1984 and later..	5.75	4.0	1.75	5.0	³ 2,100.0
Alternative III:					
1977.....	8.4	6.0	2.4	7.1	1,709.9
1978.....	7.9	5.7	2.2	6.4	1,685.9
1979.....	8.1	7.6	.5	6.6	1,662.0
1980.....	8.2	5.9	2.3	6.6	1,648.4
1981.....	7.0	5.1	1.9	6.3	1,645.2
1982.....	6.5	5.0	1.5	6.0	1,642.1
1983.....	6.25	5.0	1.25	5.6	1,638.9
1984 and later..	6.25	5.0	1.25	5.5	³ 1,700.0

¹ Expressed as the difference between percentage increases in average annual wages and average annual CPI.

² Average number of children born per 1,000 women in their lifetime.

³ This ultimate total fertility rate is not reached until after 1984.

The wide range in the costs of the program under the three sets of assumptions only suggests the degree to which the estimates are sensitive to changes in assumptions and how far from the mark experience may show the estimates to be. For example, the 75-year average cost under each of the three sets of estimates is 14.87 percent, 19.19 percent and 27.08 percent. However, if one takes only the intermediate set of estimates, uses the 1.75 real wage growth but assumes that the CPI rises at either 2 percent or 6 percent rather than the 4 percent value used for the intermediate set of assumptions, the cost of the program becomes:

	75-year average cost
Wages 3.75 percent—CPI 2 percent.....	16.58
Wages 5.75 percent—CPI 4 percent.....	19.19
Wages 7.75 percent—CPI 6 percent.....	21.96

The above keeps the rise in real wages at 1.75 percent. If one holds the CPI constant but assumes that real wages rise at 1 percent or 2.5 percent the cost under assumption II would be:

	75-year average cost
Wages 5 percent—CPI 4 percent.....	24.20
Wages 5.75 percent—CPI 4 percent.....	19.19
Wages 6.5 percent—CPI 4 percent.....	15.64

A similar though much less substantial variation in cost would be shown if the ultimate fertility rate of 2.1 children per woman were changed. Under the assumptions indicated the cost would be:

Fertility rate:	75-year average cost
1.7.....	21.00
1.9.....	20.03
2.1.....	19.19
2.3.....	18.45
2.5.....	17.80

Staff Note: The social security actuaries have indicated to the staff their preference for a 1.9 ultimate fertility rate.

The report of the Trustees also points out that in preparing the long-term cost estimates they did not make any assumptions as to the size of the trust funds or changes in the size of the trust fund. If one wished to have the funds grow so that at the end of the 75-year valuation period they equaled the expenditures for the following year, additional income averaging 0.24 percent of taxable payroll per year over the 75-year period would be needed.

APPENDIX B

**INCREASE IN EMPLOYER TAX LIABILITIES UNDER
ADMINISTRATION PROPOSAL**

Increase in Employer Tax Liabilities Under Administration Proposal

The attached tables were prepared in the Department of Health, Education, and Welfare to show the estimated impact of the administration short-run financing plan on 1981 employer tax liabilities. The staff has not had an opportunity to evaluate the information in the tables. The staff notes that the data is broken to show small firms and large firms but not firms with more than 1,050 employees but less than 10,000 employees.

The following statement was furnished to the staff along with the tables.

"These estimates are from data supplied by the Office of Research and Statistics of the Social Security Administration. They come from a 1 percent sample of persons working in covered employment in 1973.

"Implicit in this exercise is the assumption that the 1981 structure of relative wages and employment in each industry will be identical to the 1973 structure.

"Employers are categorized by the estimated total number of persons who worked for them at any time during the year. Those categorized as small employers had fewer than 1,050 employees. Given the nature of the data, it is probably not feasible for us to break out employers that are much smaller than this.

"State and local government employment is categorized according to the industry reported by the governmental unit. Some governments report local school and hospital employment as education and hospitals respectively; others report all employment regardless of function as government."

TABLE 38.—PERCENTAGE INCREASE IN EMPLOYER TAX LIABILITIES BY INDUSTRY GROUP AND SIZE OF FIRM ESTIMATED 1981 LIABILITY UNDER ADMINISTRATION PLAN

Industry	All firms	Small firms ¹	Large firms ¹
Agriculture, forestry, and fisheries.....	6.0	4.8	(²)
Construction.....	14.3	13.7	14.1
Mining and durable manufacturing.....	14.1	12.6	16.6
Nondurable manufacturing.....	13.0	12.9	13.8
Transport, communication, and utilities..	15.7	12.8	18.4
Wholesale trade.....	23.6	23.2	25.9
Retail trade.....	9.7	9.8	9.9
Finance, insurance, and real estate.....	21.2	21.1	21.1
Medical offices.....	60.5	63.3	(²)
Hospitals and nursing homes.....	4.8	2.7	(²)
Educational institutions.....	10.6	6.2	17.1
Nonprofit institutions.....	10.6	9.9	(²)
Other services.....	14.8	14.5	17.4
State and local government.....	7.7	2.5	10.7
U.S. military.....	4.7	(²)	4.7
All industries.....	13.9	14.0	14.7

¹ Small firms are those with fewer than 1,050 employees; large firms are those with 10,000 or more employees. Classification based on estimated total number of persons employed by firm at some time during 1973.

² None in category or too few to allow reliable estimate.

TABLE 39.—ESTIMATED PERCENTAGE OF EMPLOYEES EARNING MORE THAN THE 1981 PRESENT LAW TAXABLE MAXIMUM FROM 1 EMPLOYER

Industry	All firms	Small firms	Large firms
Agriculture, forestry, and fisheries.	1.6	1.3	(²)
Construction.....	8.3	10.9	16.4
Mining and durable manufacturing.	14.6	7.1	26.2
Nondurable manufacturing.....	8.5	5.3	14.9
Transport, communication, and utilities.....	18.0	9.0	29.9
Wholesale trade.....	12.2	9.1	25.8
Retail trade.....	2.7	2.4	3.9
Finance, insurance, and real estate.	8.7	7.0	14.5
Medical offices.....	6.8	6.6	(²)
Hospitals and nursing homes.....	2.5	1.4	(²)
Educational institutions.....	8.7	5.4	14.4
Nonprofit institutions.....	3.8	3.6	(²)
Other services.....	3.7	4.7	3.8
State and local government.....	8.0	2.4	12.6
U.S. military.....	4.6	(²)	4.6

See notes to table 38.

TABLE 40.—PERCENTAGE INCREASE IN EMPLOYER TAX LIABILITIES BY INDUSTRY GROUP AND SIZE OF FIRM (DETAILED BREAKOUT OF EDUCATIONAL INSTITUTIONS)

Industry	All firms	Small firms	Large firms
Elementary and secondary education.....	7.9	5.6	(²)
Colleges and universities.....	17.5	8.4	19.3

See notes to table 38.

95TH CONGRESS
1ST SESSION

H. R. 8218

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 1977

Mr. BURKE of Massachusetts introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, and to eliminate from that system gender-based distinctions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE; REFERENCE TO ACT

4 SECTION 1. (a) This Act may be cited as the "Social
5 Security Financing, Benefit Indexing, and Equal Rights
6 Amendments of 1977".

7 (b) Whenever in this Act an amendment is expressed
8 in terms of an amendment to a section or other provision

1 without specification of Act, the reference is to a section or
2 other provision of the Social Security Act.

3 TITLE I—PROVISIONS TO IMPROVE THE FINANC-
4 ING OF THE OLD-AGE, SURVIVORS, AND DIS-
5 ABILITY INSURANCE PROGRAMS

6 SHORT TITLE OF TITLE I

7 SEC. 101. This title may be cited as the “Social Security
8 Financing Amendments of 1977”.

9 CONTRIBUTION FROM THE GENERAL FUND OF THE TREAS-
10 URY TO THE FEDERAL OLD-AGE AND SURVIVORS, DIS-
11 ABILITY, AND HOSPITAL INSURANCE TRUST FUNDS
12 FOR YEARS OF EXCEPTIONALLY HIGH UNEMPLOYMENT

13 SEC. 102. Section 201 is amended by adding at the end
14 the following new subsection:

15 “(j) (1) On or before July 1 of each calendar year im-
16 mediately succeeding a calendar year in which the average
17 rate of unemployment, as determined by the Bureau of Labor
18 Statistics of the Department of Labor, has exceeded 6 per-
19 cent, the Secretary of the Treasury shall transfer to the Fed-
20 eral Old-Age and Survivors Insurance Trust Fund, the Fed-
21 eral Disability Insurance Trust Fund, and (as established
22 by section 1817 (a)) the Federal Hospital Insurance Trust
23 Fund an amount computed in accordance with paragraph
24 (2), and apportioned among the funds in accordance with
25 paragraph (3).

1 “(2) The amount to be transferred under paragraph
2 (1) in a calendar year shall be the product of—

3 “(A) an amount equal to the sum of (i) the
4 amounts appropriated in the preceding calendar year to
5 the Federal Old-Age and Survivors Insurance Trust
6 Fund under subsection (a), the Federal Disability In-
7 surance Trust Fund under subsection (b), and the Fed-
8 eral Hospital Insurance Trust Fund under section 1817
9 (a); and (ii) the amounts deposited in those trust
10 funds in the preceding calendar year under section 218
11 (h); and

12 “(B) 3 times the number of whole one-term per-
13 centage points by which, for that preceding calendar
14 year, the average rate of unemployment exceeded 6
15 percent, divided by 1,000.

16 “(3) The sum allocated to each trust fund in any cal-
17 endar year from the amount transferred under the preceding
18 paragraph shall bear the same proportion to the sum of (i)
19 the amount transferred under that paragraph in that year as
20 the amount appropriated to that trust fund by subsection
21 (a) or (b) of this section, or subsection (a) of section
22 1817, as may be applicable, and (ii) the amount deposited
23 in that trust fund under section 218 (h), bears to the entire
24 amount appropriated by those subsections to those trust

1 funds and deposited in those trust funds, under section 218
2 (h), in the preceding calendar year.

3 “(4) This subsection is deemed to become effective
4 January 1, 1976. Any transfer under this subsection that
5 would thereby have been made in calendar year 1976 or
6 1977, with respect to the rate of unemployment in calendar
7 year 1975 or 1976, respectively, shall be made in three
8 equal installments, the first within 30 days after the enact-
9 ment of this subsection, the second no later than June 30,
10 1979, and the third no later than June 30, 1980. No trans-
11 fer may be made under this subsection with respect to the
12 rate of unemployment for any calendar year after 1982.”.

13 APPLICATION OF EMPLOYER EXCISE TAX TO WAGES IN

14 EXCESS OF CONTRIBUTION AND BENEFIT BASE

15 SEC. 103. (a) Section 230 (c) is amended by adding
16 at the end the following sentence: “For purposes of the
17 employer tax liability under section 3111 of the Internal
18 Revenue Code of 1954 and section 3221 in the case of rail-
19 road employment, the contribution and benefit base referred
20 to in paragraph (1) of section 3121 (a) of the Internal
21 Revenue Code of 1954 is deemed to be \$23,400 and \$37,500
22 with respect to remuneration paid during calendar years
23 1979 and 1980, respectively.”.

24 (b) (1) Sections 3111 (a) and 3111 (b) of the Internal

1 Revenue Code of 1954 are each amended by inserting “, but
2 without regard to paragraph (1) thereof” after “as defined
3 in section 3121 (a)”.

4 (2) Section 3221 (a) of the Code is amended by in-
5 serting “, but without regard to paragraph (1) of section
6 3121 (a),” after “as defined in section 3121” each time it
7 appears.

8 (3) Section 3121 (a) of the Code is amended by in-
9 serting immediately after the number designating paragraph
10 (1) the following: “other than for purposes of sections 3111
11 and 3221”.

12 (4) This subsection is effective with respect to remu-
13 neration paid in any calendar year after 1980.

14 INCREASE IN CONTRIBUTION AND BENEFIT BASE FOR
15 EMPLOYEES

16 SEC. 104. Section 230 is amended by adding at the end
17 the following new subsection:

18 “(d) Except as otherwise provided by the last sentence
19 of subsection (c), for calendar years 1979, 1981, 1983,
20 and 1985 the contribution and benefit base shall be equal to
21 the amount determined under subsection (b) but as aug-
22 mented for each such year (and carried forward thereafter)
23 by \$600.”.

1 ADVANCE OF PLANNED EMPLOYMENT TAX INCREASE;
2 INCREASE IN SELF-EMPLOYMENT TAX; REALLOCATION
3 AMONG TRUST FUNDS

4 SEC. 105. (a) TAX ON EMPLOYEES.—

5 (1) OASDI.—Paragraphs (1) and (2) of section
6 3101 (a) of the Internal Revenue Code of 1954 are
7 amended to read as follows:

8 “(1) with respect to wages received during the
9 calendar years 1974 through 1977, the rate shall be 4.95
10 percent;

11 “(2) with respect to wages received during the
12 calendar years 1978 through 1980, the rate shall be
13 5.05 percent;

14 “(3) with respect to wages received during the
15 calendar years 1981 through 1984, the rate shall be
16 5.15 percent;

17 “(4) with respect to wages received during the
18 calendar years 1985 through 1989, the rate shall be
19 5.40 percent; and

20 “(5) with respect to wages received after Decem-
21 ber 31, 1989, the rate shall be 6.15 percent.”

22 (2) HOSPITAL INSURANCE.—Paragraphs (2)
23 through (4) of section 3101 (b) of the Code are
24 amended to read as follows:

25 “(2) with respect to wages received during the

1 calendar years 1978 through 1980, the rate shall be
2 1 percent;

3 “ (3) with respect to wages received during the
4 calendar years 1981 through 1985, the rate shall be
5 1.15 percent; and

6 “ (4) with respect to wages received after Decem-
7 ber 31, 1985, the rate shall be 1.30 percent.”

8 (b) TAX ON EMPLOYERS.—

9 (1) OASDI.—Paragraphs (1) and (2) of section
10 3111 (a) of the Code are amended to read as follows:

11 “ (1) with respect to wages paid during the calen-
12 dar years 1974 through 1977, the rate shall be 4.95
13 percent;

14 “ (2) with respect to wages paid during the calendar
15 years 1978 through 1980, the rate shall be 5.05 per-
16 cent;

17 “ (3) with respect to wages paid during the calen-
18 dar years 1985 through 1989, the rate shall be 5.40
19 percent;

20 “ (4) with respect to wages paid during the calen-
21 dar year 1985 through 1989, the rate shall be 5.40
22 percent; and

23 “ (5) with respect to wages paid after December
24 31, 1989, the rate shall be 6.15 percent.”

25 (2) HOSPITAL INSURANCE.—Paragraphs (2)

1 through (4) of section 3111(b) of the Code are
2 amended to read as follows:

3 “(2) with respect to wages paid during the calen-
4 dar years 1978 through 1980, the rate shall be 1 per-
5 cent;

6 “(3) with respect to wages paid during the calen-
7 dar years 1981 through 1985, the rate shall be 1.15
8 percent; and

9 “(4) with respect to wages paid after December 31,
10 1985, the rate shall be 1.30 percent.”

11 (c) TAX ON SELF-EMPLOYMENT INCOME.—

12 (1) OASDI.—Subsection (a) of section 1401 of
13 the Code is amended to read as follows:

14 “(a) OLD-AGE, SURVIVORS, AND DISABILITY INSUR-
15 ANCE.—In addition to other taxes there shall be imposed
16 for each taxable year, on the self-employment income of
17 every individual, a tax as follows:

18 “(1) in the case of any taxable year beginning
19 after December 31, 1972, and before January 1, 1978,
20 the tax shall be equal to 7 percent of the amount of the
21 self-employment income for such taxable year;

22 “(2) in the case of any taxable year beginning
23 after December 31, 1977, and before January 1, 1979,
24 the tax shall be equal to 7.10 percent of the amount of
25 the self-employment income for such taxable year;

1 “(3) in the case of any taxable year beginning
2 after December 31, 1978, and before January 1, 1981,
3 the tax shall be equal to 7.60 percent of the amount of
4 the self-employment income for such taxable year;

5 “(4) in the case of any taxable year beginning
6 after December 31, 1980, and before January 1, 1985,
7 the tax shall be equal to 7.70 percent of the amount of
8 the self-employment income for such taxable year;

9 “(5) in the case of any taxable year beginning
10 after December 31, 1984, and before January 1, 1990,
11 the tax shall be equal to 8.10 percent of the amount of
12 the self-employment income for such taxable year; and

13 “(6) in the case of any taxable year beginning
14 after December 31, 1989, the tax shall be equal to
15 9.20 percent of the amount of the self-employment
16 income for such taxable year.”

17 (2) HOSPITAL INSURANCE.—Paragraphs (2)
18 through (4) of subsection (b) of section 1401 of the
19 Code are amended to read as follows:

20 “(2) in the case of any taxable year beginning
21 after December 31, 1977, and before January 1, 1981,
22 the tax shall be equal to 1 percent of the amount of
23 the self-employment income for such taxable year;

24 “(3) in the case of any taxable year beginning
25 after December 31, 1980, and before January 1, 1986,

1 the tax shall be equal to 1.15 percent of the amount of
2 the self-employment income for such taxable year; and

3 “(4) in the case of any taxable year beginning
4 after December 31, 1985, the tax shall be equal to 1.30
5 percent of the amount of the self-employment income for
6 such taxable year.”

7 (d) ALLOCATION TO DISABILITY INSURANCE TRUST
8 FUND.—

9 (1) ALLOCATION OF WAGES.—Section 201 (b) (1)
10 of the Social Security Act is amended by striking out
11 all that follows clause (F) and inserting in lieu thereof
12 the following:

13 “(G) 1.50 percent of the wages (as so defined)
14 paid after December 31, 1977, and before January 1,
15 1981, and so reported, (H) 1.60 percent of the wages
16 (as so defined) paid after December 31, 1980, and be-
17 fore January 1, 1983, and so reported, (I) 1.70 percent
18 of the wages (as so defined) paid after December 31,
19 1982, and before January 1, 1986, and so reported, (J)
20 1.85 percent of the wages (as so defined) paid after
21 December 31, 1985, and before January 1, 1990, and
22 so reported, and (K) 2.30 percent of the wages (as so
23 defined) paid after December 31, 1989, and so reported,
24 which wages shall be certified by the Secretary of
25 Health, Education, and Welfare on the basis of the rec-

1 ords of wages established and maintained by such Sec-
2 retary in accordance with such reports; and”.

3 (2) ALLOCATION OF SELF-EMPLOYMENT IN-
4 COME.—Section 201 (b) (2) is amended by striking out
5 all that follows clause (F) and inserting in lieu thereof
6 the following: “(G) 1.055 percent of the amount of
7 self-employment income (as so defined) so reported for
8 any taxable year beginning after December 31, 1977,
9 and before January 1, 1979, (H) 1.130 percent of the
10 amount of self-employment income (as so defined) so
11 reported for any taxable year beginning after Decem-
12 ber 31, 1978, and before January 1, 1981, (I) 1.200
13 percent of the amount of self-employment income (as so
14 defined) so reported for any taxable year beginning after
15 December 31, 1980, and before January 1, 1983, (J)
16 1.270 percent of the amount of self-employment income
17 (as so defined) so reported for any taxable year begin-
18 ning after December 31, 1982, and before January 1,
19 1986, and (K) 1.390 percent of the amount of self-
20 employment income (as so defined) so reported for any
21 taxable year beginning after December 31, 1985, and
22 before January 1, 1990, and (L) 1.720 percent of the
23 amount of self-employment income (as so defined) so
24 reported for any taxable year beginning after Decem-
25 ber 31, 1989, which self-employment income shall be

1 certified by the Secretary of Health, Education, and
2 Welfare on the basis of the records of self-employment
3 income established and maintained by the Secretary of
4 Health, Education, and Welfare in accordance with such
5 returns.”.

6 TITLE II—STABILIZATION OF INCOME REPLACE-
7 MENT RATES IN THE OLD-AGE SURVIVORS,
8 AND DISABILITY INSURANCE PROGRAMS

9 SHORT TITLE OF TITLE II

10 SEC. 201. This title may be cited as the “Social Security
11 Benefit Indexing Amendments of 1977”.

12 COMPUTATION OF PRIMARY INSURANCE AMOUNT

13 SEC. 202. (a) Section 215 (a) is amended to read as
14 follows:

15 “(a) (1) (A) The primary insurance amount of an
16 individual to whom this paragraph applies by reason of
17 paragraph (3) is an amount (but in no case less than the
18 amount specified by subparagraph (C)) that is equal to the
19 sum of—

20 “(i) 94 percent of the portion of the individual’s
21 average indexed monthly earnings (determined under
22 subsection (b)) that is established with respect to this
23 clause by subparagraph (B) ,

24 “(ii) 34 percent of the portion of the individual’s
25 average indexed monthly earnings that exceeds the

1 portion to which clause (i) applies but does not exceed
2 an amount established with respect to this clause by sub-
3 paragraph (B), and

4 “(iii) 16 percent of the portion of the individual’s
5 average indexed monthly earnings that exceeds the sum
6 of the portions established by subparagraph (B) with
7 respect to clauses (i) and (ii) of this subparagraph,
8 rounded in accordance with subsection (g) and thereafter
9 increased as provided by subsection (i) of this section.

10 “(B) (i) For the calendar year 1979 the portions es-
11 tablished with respect to subparagraphs (A) (i) and (A)
12 (ii) are \$180 and \$1,075, respectively.

13 “(ii) For a calendar year after 1979 the portion estab-
14 lished with respect to each of those subparagraphs shall equal
15 the product of the portion established with respect to it by
16 clause (i) of this subparagraph and the quotient obtained by
17 dividing—

18 “(I) the average of the wages of all employees as
19 reported to the Secretary of the Treasury for the second
20 calendar year preceding the calendar year for which the
21 determination is made, by

22 “(II) the average of the wages of all employees
23 as reported to the Secretary of the Treasury for the
24 calendar year 1977.

25 “(iii) The portion established under clause (ii) shall

1 be rounded to the nearest \$5, except that an amount that is
2 a multiple of \$2.50 but not a multiple of \$5 shall be rounded
3 to the higher \$5.

4 “(iv) In computing the primary insurance amount of
5 an individual under this paragraph, the portions of the indi-
6 vidual’s average indexed monthly earnings to which sub-
7 paragraph (A) applies are those portions established by
8 this subparagraph for the year in which the individual ini-
9 tially becomes entitled to an old-age insurance benefit, or
10 (if earlier) becomes disabled or dies.

11 “(C) (i) No primary insurance amount computed under
12 subparagraph (A) may be less than the greatest of—

13 “(I) \$120.60,

14 “(II) the amount determined under subparagraph
15 (i) with respect to this subparagraph,

16 “(III) an amount equal to \$9 multiplied by the
17 individual’s years of coverage in excess of 10.

18 “(ii) For purposes of the preceding clause, the term
19 ‘years of coverage’ means the number (not exceeding 30)
20 equal to the sum of (I) the number (not exceeding 14 and
21 disregarding any fraction) determined by dividing the total
22 of the wages credited to the individual (including wages
23 deemed to be paid prior to 1951 to such individual under
24 section 217, compensation under the Railroad Retirement

1 Act of 1974 prior to 1951 which is creditable to such indi-
2 vidual pursuant to this title, and wages deemed to be paid
3 prior to 1951 to such individual under section 231) for years
4 after 1936 and before 1951 by \$900, plus (II) the number
5 equal to the number of years after 1950 each of which is a
6 computation base year (within the meaning of subsection
7 (b) (2) (B) (ii)) and in each of which he is credited with
8 wages (including wages deemed to be paid to such individ-
9 ual under section 217, compensation under the Railroad
10 Retirement Act of 1974 which is creditable to such individ-
11 ual pursuant to this title, and wages deemed to be paid prior
12 to 1951 to such individual under section 229) and self-
13 employment income of not less than 25 percent of the maxi-
14 mum amount which, pursuant to subsection (e), may be
15 counted for such year.

16 “(D) In each calendar year after 1978 the Secretary
17 shall publish in the Federal Register, on or before Novem-
18 ber 1, the formula applicable under this paragraph and sub-
19 section (b) (3) to an individual who becomes entitled to
20 an old-age insurance benefit, or (if earlier) becomes disabled
21 or dies, in the following year, and the average wages (as
22 described by clause (I) of subparagraph (B) (ii)) on which
23 that formula is based. With the initial publication required
24 by this subparagraph, the Secretary shall also publish in the

1 Federal Register the average wages (as so described) for
2 each year after calendar year 1950 for which he has that
3 information.

4 “(2) (A) In the case of an individual who was entitled
5 to a disability insurance benefit for any of the 12 months
6 before the month in which he became entitled to an old-age
7 insurance benefit, reentitled to a disability insurance benefit,
8 or died, the primary insurance amount for determining any
9 benefit attributable to that entitlement, reentitlement, or
10 death is the greater of—

11 “(i) the primary insurance amount upon which
12 that disability insurance benefit was based, increased in
13 the case of the individual who so became entitled, re-
14 entitled, or died by each general benefit increase (as
15 defined in subsection (i) (3)) and each increase pro-
16 vided under subsection (i) (2) that would have applied
17 to that primary insurance amount had the individual
18 remained entitled to that disability insurance benefit
19 until the month in which he became entitled, reentitled,
20 or died, or

21 “(ii) the amount computed under paragraph (1)
22 (C).

23 “(B) In the case of an individual who was entitled to
24 a disability insurance benefit for any month, and with respect
25 to whom a primary insurance amount is required to be

1 computed at any time after the close of the period of the
2 individual's disability (whether because of that individual's
3 subsequent entitlement to old-age insurance benefits, to a
4 disability insurance benefit based upon a subsequent period
5 of disability, or death), the primary insurance amount so
6 computed may in no case be less than the primary insurance
7 amount with respect to which that former disability insur-
8 ance benefit was determined.

9 “(3) (A) Except as otherwise provided by paragraph
10 (4), paragraph (1) applies to—

11 “(i) an individual who was not eligible for an old-
12 age insurance benefit prior to January 1979 and who
13 in that or any succeeding month—

14 “(I) becomes eligible for that benefit, or

15 “(II) becomes eligible for a disability insur-
16 ance benefit, or

17 “(III) dies.

18 “(ii) an individual described in clause (i) of this
19 subparagraph, notwithstanding that the individual was
20 entitled to receive a disability insurance benefit for a
21 month prior to January 1979, except as paragraph (4)
22 (A) otherwise provides.

23 “(B) For the purposes of this title, unless less than
24 12 months have elapsed since the termination of a prior
25 period of disability, an individual is deemed to be eligible

1 for a benefit for the first month in which he could have been
2 entitled to that benefit upon his filing of an application for
3 it, or, in the case of a disability insurance benefit, the month
4 in which the disability began as described in section 216 (i)
5 (2) (C).

6 “(4) Paragraph (1) does not apply to the computation
7 or recomputation of a primary insurance amount for—

8 “(A) an individual who was eligible for a disability
9 insurance benefit for a month prior to January 1979
10 unless, prior to the month in which there occurs the event
11 described in clause (i) (I), (i) (II), or (i) (III) of
12 paragraph (3) (A), there occurs a period of 12 con-
13 secutive months for which he was not entitled to receive
14 a disability insurance benefit, or

15 “(B) (i) an individual who was not eligible for an
16 old-age or disability insurance benefit, or did not die,
17 prior to January 1979, if in the year for which the com-
18 putation or recomputation would be made the indi-
19 vidual’s primary insurance amount would be greater if
20 computed or recomputed—

21 “(I) under section 215 (a) (without reference
22 to section 215 (d)), as in effect in December 1978,
23 in the case of an individual who becomes eligible for
24 an old-age insurance benefit prior to 1984, or

25 “(II) as provided by section 215 (d), in the

1 case of an individual who becomes eligible for an
2 old-age insurance or disability insurance benefit, or
3 dies, after 1978.

4 “(ii) In making the comparison required by this
5 subparagraph—

6 “(I) the table of benefits in effect in Decem-
7 ber 1978 shall apply without regard to any in-
8 creases in that table effective (in accordance with
9 subsection (i) (4)) for years after 1978 and prior
10 to the year in which the insured individual became
11 eligible for an old-age or disability insurance bene-
12 fit, or died; and

13 “(II) the individual’s average monthly wage
14 shall be computed as provided by subsection (b)
15 (4).

16 “(5) With respect to computing the primary insurance
17 amount, after December 1978, for an individual to whom
18 paragraph (1) does not apply (except an individual de-
19 scribed in paragraph (4) (B)), this section as in effect in
20 December 1978 remains in effect. The table for determining
21 primary insurance amounts and maximum family benefits
22 contained in this section in December 1978 shall be revised
23 as provided by subsection (i) for each year after 1978.”

24 (b) Section 215(b) (except the caption thereof) is
25 amended to read as follows:

1 “(b) (1) An individual’s average indexed monthly
2 earnings is equal to the quotient obtained by dividing—

3 “(A) the total (after adjustment under paragraph
4 (3)) of his wages paid in and self-employment income
5 credited to his benefit computation years (determined
6 under paragraph (2)), by

7 “(B) the number of months in those years.

8 “(2) (A) The number of an individual’s benefit compu-
9 tation years equals the number of elapsed years, reduced by
10 five, except that the number of those years may not be less
11 than two.

12 “(B) For purposes of this subsection—

13 “(i) the term ‘benefit computation years’ means
14 those computation base years, equal in number to the
15 number determined under subparagraph (A) of this
16 paragraph, for which the total of the individual’s wages
17 and self-employment income, after adjustment under
18 paragraph (3) , is the largest;

19 “(ii) the term ‘computation base years’ means the
20 calendar years after 1950 and prior to the earliest of—

21 “(I) in the case of an individual entitled to
22 old-age insurance benefits, the year in which oc-
23 curred (whether by reason of section 202 (j) (1)
24 or otherwise) the first month of that entitlement;

1 “(II) in the case of an individual who has
2 died, the year succeeding the year of his death;
3 except that the term excludes any calendar year entirely
4 included in a period of disability;

5 “(iii) the term ‘number of elapsed years’ means,
6 except as otherwise provided by section 104 (j) of the
7 Social Security Amendments of 1972, Public Law
8 92-603, the number of calendar years after 1950 (or,
9 if later, the year in which the individual attained age 21)
10 and before the year in which the individual died, or,
11 if it occurred after 1960, the year in which he attained
12 age 62; except that the term excludes any calendar year
13 any part of which is included in a period of disability.

14 “(3) (A) Except as provided by subparagraph (B),
15 the wages paid in and self-employment income credited to
16 each of an individual’s benefit computation years under
17 paragraph (1) is deemed equal to the product of—

18 “(i) the wages or income so credited, and

19 “(ii) the quotient obtained by dividing—

20 “(I) the average of the wages of all employees
21 as reported to the Secretary of the Treasury for the
22 second calendar year (after 1976) preceding the
23 earliest of the year of the individual’s death, initial

1 entitlement to an old-age insurance benefit, or initial
2 eligibility for a disability insurance benefit, by

3 “(II) the average of the wages of all em-
4 ployees as reported to the Secretary of the Treasury
5 for the benefit computation year for which the deter-
6 mination is made.

7 “(B) Wages paid in or self-employment income credited
8 to an individual’s benefit computation year that occurs—

9 “(i) after the second calendar year specified in sub-
10 paragraph (A) (ii) (I), and where applicable,

11 “(ii) in a year deemed by subsection (f) (2) (D)
12 to be the last year of the period specified in subsection
13 (b) (2) (B) (ii);

14 are included in determining his average indexed monthly
15 earnings, under paragraph (1), without applying subpara-
16 graph (A) of this paragraph.

17 “(4) With respect to determining the average monthly
18 wage of an individual whose primary insurance amount is
19 computed (after 1978) under section 215 (a) or 215 (d)
20 as in effect (except with respect to the tables contained
21 therein) in December 1978, by reason of subsection (a) (4)
22 (B), this subsection as in effect in December 1978 remains
23 in effect, except that paragraph (2) (C) (as then in effect)
24 is deemed to provide that ‘computation base years’ include

1 only calendar years in the period after 1950 (or 1936, if
2 applicable) and prior to the year in which occurred the first
3 month for which the individual was eligible (as defined in
4 subsection (a) (3) (B) of this section as in effect in January
5 1979) for an old-age or disability insurance benefit, or died.
6 Any calendar year all of which is included in a period of
7 disability is not included in a computation base year.”.

8 (c) Section 215 (c) (except the caption thereof) is
9 amended to read as follows:

10 “(c) This subsection, as in effect in December 1978,
11 shall remain in effect with respect to an individual to whom
12 subsection (a) (1) does not apply by reason of the indi-
13 vidual’s eligibility for an old-age insurance or disability in-
14 surance benefit, or the individual’s death, prior to 1979.”.

15 (d) (1) The matter in section 215 (d) preceding sub-
16 paragraph (C) of paragraph (1) is amended to read as
17 follows:

18 “(d) (1) For the purpose of column I of the table ap-
19 pearing in subsection (a) of this section, as that subsection
20 was in effect in December 1977, an individual’s primary
21 insurance benefit shall be computed as follows:

22 “(A) The individual’s average monthly wage shall
23 be determined as provided in subsection (b) of this sec-
24 tion, as in effect in December 1977 (but without regard

1 to paragraph (4) thereof), except that, for purposes of
2 paragraphs (2) (C) and (3) of that subsection (as so in
3 effect), 1936 shall be used instead of 1950.

4 “(B) For purposes of subparagraphs (B) and (C)
5 of subsection (b) (2) (as so in effect), the total wages
6 prior to 1951 (as defined in subparagraph (C) of this
7 subsection) of an individual who attained age 21 after
8 1936 and prior to 1951 shall be divided by the number
9 of years (hereinafter in this subparagraph referred to as
10 the ‘divisor’) elapsing after the year in which the indi-
11 vidual attained age 21 and prior to the earlier of 1951
12 or the year of the individual’s death. The quotient so ob-
13 tained is deemed to be the individual’s wages credited
14 for each of the years included in the divisor except—

15 “(i) if the quotient exceeds \$3,000, only
16 \$3,000 is deemed to be the individual’s wages for
17 each of years included in the divisor, and the re-
18 mainder of the individual’s total wages prior to 1951
19 (I) if less than \$3,000, are deemed credit to the
20 year immediately preceding the earliest year used in
21 the divisor, or (II) if \$3,000 or more, are deemed
22 credited, in \$3,000 increments, to the year in which
23 the individual attained age 21 and to each year con-
24 secutively preceding that year, with any remainder

1 less than \$3,000 credited as provided by clause
2 (I) ; and

3 “(ii) no more than \$42,000 may be taken into
4 account, for purposes of this subparagraph, as total
5 wages prior to 1951.”

6 (2) Section 215(d)(1)(D) is amended to read as
7 follows:

8 “(D) The individual’s primary insurance benefits
9 shall be 40 percent of the first \$50 of his average
10 monthly wage as computed under this subsection, plus
11 10 percent of the next \$200 of his average monthly
12 wage; increased by 1 percent for each increment year.
13 The number of increment years is the number,
14 not more than 14 nor less than 4, that is equal to the
15 individual’s total wages prior to 1951 divided by \$1,650
16 (disregarding any fraction).”

17 (3) Section 215(d)(3) is amended (A) by striking
18 subparagraphs (A) and (B), and (B) by striking the dash
19 after “individual” and inserting instead the text of the
20 stricken subparagraph (B).

21 (4) Section 215(d) is amended by adding at the end
22 the following new paragraph:

23 “(4) The provisions of this subsection as in effect in
24 December 1977 shall be applicable to individuals who become

1 eligible for old-age insurance or disability insurance benefits
2 or die prior to 1978.”.

3 (e) Section 215 (e) is amended—

4 (1) by striking out “average monthly wage” each
5 time it appears and inserting instead “average indexed
6 monthly earnings or, in the case of an individual whose
7 primary insurance amount is computed under section
8 215 (a) as in effect prior to January 1979, average
9 monthly wage,” and

10 (2) by inserting immediately before “of (A)” in
11 paragraph (1) the following: “(before the application,
12 in the case of average indexed monthly earnings, of sub-
13 section (b) (3) (A))”.

14 (f) (1) Section 215 (f) (2) is amended to read as
15 follows:

16 “(2) (A) If an individual has wages or self-employ-
17 ment income for a year after 1978 for any part of which
18 he is entitled to old-age or disability insurance benefits,
19 the Secretary shall, at such time or times and within such
20 period as he may by regulation prescribe, recompute the
21 individual’s primary insurance amount for that year.

22 “(B) For the purpose of applying subparagraph
23 (A) of subsection (a) (1) to the average indexed
24 monthly earnings of an individual to whom that subsec-
25 tion applies and who receives a recomputation under this

1 paragraph, there shall be used, in lieu of the portions of
2 those earnings established by clauses (i) and (ii) of
3 subparagraph (B) of that subsection, the portions that
4 were (or, in the case of an individual described in sub-
5 section (a) (4) (B) would have been) used in the com-
6 putation of the individual's primary insurance amount
7 prior to the application of this subsection.

8 “(C) A recomputation under this paragraph shall
9 be made as provided in subsection (a) (1) as though
10 the year with respect to which it is made is the last year
11 of the period specified in subsection (b) (2) (B) (ii).

12 “(D) A recomputation under this paragraph with
13 respect to any year shall be effective—

14 “(i) in the case of an individual who did not
15 die in that year, for monthly benefits beginning
16 with benefits for January of the following year; or

17 “(ii) in the case of an individual who died in
18 that year, for monthly benefits beginning with bene-
19 fits for the month in which he died.”.

20 (2) Section 215 (f) (3) is repealed.

21 (3) Section 215 (f) (4) is amended to read as follows:

22 “(4) A recomputation is effective under this subsection
23 only if it results in a primary insurance amount that is higher
24 (by at least \$1) after computation under subsection (a) (1)
25 or, in the case of an individual to whom subsection (a) (4)

1 (B) applies, results in such higher amount under the table
 2 then in effect under section 215 (a) as in effect (other than
 3 with respect to the table) in December 1978.”

4 (4) There is added at the end of section 215 (f) the
 5 following new paragraph:

6 “(7) This subsection, as in effect in December 1978,
 7 shall continue to apply to the recomputation of a primary
 8 insurance amount computed under subsection (a) or (d)
 9 as in effect (without regard to the table contained therein)
 10 in that month, and, where appropriate, under subsection (d)
 11 as in effect in December 1977. For purposes of recomputing
 12 the primary insurance amount under subsection (a) or (d)
 13 (as thus in effect) with respect to an individual to whom
 14 those subsections apply by reason of paragraph (B) of sub-
 15 section (a) (4) as in effect after December 1978, no remu-
 16 neration shall be taken into account for the year in which the
 17 individual initially became eligible for an old-age insurance
 18 or disability insurance benefit, or for any year thereafter.”

19 (g) (1) Section 215 (i) (2) (A) (ii) is amended to read
 20 as follows:

21 “(ii) If the Secretary determines that the base
 22 quarter in any year is a cost-of-living computation quar-
 23 ter, he shall, effective with the month of June of that
 24 year as provided in subparagraph (B), increase—

25 “(I) the benefit amount of each individual who

1 for that month is entitled to benefits under section
2 227 or 228, and the benefits otherwise scheduled
3 to be provided under those sections, and

4 “(II) the primary insurance amount of each
5 other individual on which benefit entitlement is
6 based under this title,

7 “(III) the total monthly benefits permitted
8 under section 203 (which shall be increased, unless
9 otherwise so increased under another provision of
10 this title, at the same time as the primary insurance
11 amount on which they are based) or, in the case
12 of a primary insurance amount computed under sub-
13 section (a) as in effect (without regard to the table
14 contained therein) prior to January 1979, the
15 amount to which the beneficiaries may be entitled
16 under section 203 as in effect in December 1978,
17 except as provided by sections 203 (a) (6) and
18 (7) as in effect after December 1978,

19 but shall not increase a primary insurance amount that is
20 computed under subparagraph (C) (i) (III) of subsec-
21 tion (a) (1) or a primary insurance amount that was
22 computed prior to January 1979 under subsection (a)
23 (3) as then in effect. The increase shall be derived by
24 multiplying each of the amounts described in clauses
25 (I), (II), and (III) (including each of those primary

1 insurance amounts or benefit amounts as previously in-
2 creased under this subparagraph) by the same percent-
3 age (rounded to the nearest one-tenth of 1 percent) as
4 the percentage by which the Consumer Price Index for
5 that cost-of-living computation quarter exceeds that index
6 for the most recent prior calendar quarter that was a
7 base quarter under paragraph (1) (A) (ii) or, if later,
8 the most recent cost-of-living computation quarter un-
9 der paragraph (1) (B). Any amount so increased that
10 is not a multiple of \$0.10 shall be increased to the next
11 higher multiple of \$0.10.

12 (2) Section 215 (i) (2) (A) is amended by adding at
13 the end the following new clause:

14 “(iii) In the case of an individual who becomes
15 eligible for an old-age insurance or disability insurance
16 benefit, or dies prior to becoming so eligible, in a year in
17 which there occurs an increase provided in clause (ii),
18 the individual's primary insurance amount (without re-
19 gard to the time of entitlement to that benefit) shall be
20 increased (unless otherwise so increased under another
21 provision of this title) by the amount of that increase,
22 but only with respect to benefits payable for months
23 after May of that year.”

24 (3) Section 215 (i) (2) (D) is amended by striking
25 out all that follows the first sentence, and by inserting in-

1 stead the following: "He shall also publish in the Federal
 2 Register at that time a revision of the benefit established by
 3 subparagraph (C) (i) (I) of subsection (a) (1), and that
 4 shall be the amount determined for purposes of subparagraph
 5 (C) (i) (II) of such subsection."

6 (4) There is added at the end of section 215 (i) the
 7 following new paragraph:

8 " (4) This subsection, as in effect in December 1978,
 9 shall continue to apply to subsections (a) and (d), as then
 10 in effect, with respect to computing the primary insurance
 11 amount of an individual to whom subsection (a), as in effect
 12 after December 1978, does not apply (including an indi-
 13 vidual to whom subsection (a) does not apply in any year
 14 by reason of paragraph (4) (B) of that subsection). For
 15 this purpose, the Secretary shall publish in the Federal Reg-
 16 ister revisions of the table of benefits contained in subsection
 17 (a), as in effect in December 1978, as required by para-
 18 graph (2) (D) of this subsection, as then in effect."

19 MAXIMUM BENEFITS

20 SEC. 203. (a) The matter in section 203 (a) preceding
 21 paragraph (2) thereof is amended to read as follows:

22 " (a) (1) In the case of an individual whose primary
 23 insurance amount has been computed or recomputed under
 24 section 215 (a) (1), or (4), or 215 (d), as in effect after
 25 December 1978, the total monthly benefits to which bene-

1 ficiaries may be entitled under section 202 or 223 for a
2 month on the basis of the wages and self-employment in-
3 come of that insured individual shall, except as provided
4 by paragraph (3), be reduced so as not to exceed—

5 “(A) 150 percent of the portion of the individual’s
6 primary insurance amount that is established with re-
7 spect to this subparagraph by paragraph (2),

8 “(B) 275 percent of the portion of the individual’s
9 primary insurance amount that exceeds the portion to
10 which subparagraph (A) applies but does not exceed
11 an amount established with respect to this subparagraph
12 by paragraph (2),

13 “(C) 130 percent of the portion of the individual’s
14 primary insurance amount that exceeds the sum of the
15 portions to which subparagraphs (A) and (B) apply
16 but does not exceed an amount established with respect
17 to this subparagraph by paragraph (2), and

18 “(D) 175 percent of the portion of the individual’s
19 primary insurance amount that exceeds the sum of the
20 portions established by paragraph (2) with respect to
21 the preceding subparagraphs of this paragraph.

22 Any such amount that is not a multiple of \$0.10 shall be
23 increased to the next higher multiple of \$0.10.

24 “(2) (A) For the calendar year 1979 the portions es-

1 established with respect to subparagraphs (A), (B), and (C)
2 of paragraph (1) are \$245, \$340, and \$455, respectively.

3 “(B) For a calendar year after 1979 the portion es-
4 tablished with respect to each of those subparagraphs shall
5 equal the product of the portion established with respect to
6 it by subparagraph (A) of this paragraph and the quotient
7 obtained under subparagraph (B) (ii) of section 215 (a)
8 (1). The portion shall be rounded in like manner as is pre-
9 scribed by section 215 (a) (1) (B) (iii).

10 “(C) In each calendar year after 1978 the Secretary
11 shall publish in the Federal Register, on or before Novem-
12 ber 1, the formula applicable under this subsection to indi-
13 viduals who become eligible for old-age insurance benefits,
14 become disabled, or die in the following calendar year.

15 “(3) (A) When an individual to whom this subsection
16 applies would (but for the provisions of section 202 (k) (2)
17 (A)) be entitled to child’s insurance benefits for a month
18 on the basis of the wages and self-employment income of one
19 or more other individuals, the total of benefits shall not be
20 reduced under this subsection to less than the smaller of—

21 “(i) the sum of the maximum amounts of benefits
22 payable on the basis of the wages and self-employment
23 income of all of those individuals, or

24 “(ii) an amount equal to the product of 1.75 and

1 the primary insurance amount that would be computed
2 under section 215 (a) (1) for that month with respect
3 to average indexed monthly earnings equal to one-twelfth
4 of the contribution and benefit base determined for that
5 year under section 290.”.

6 (b) Paragraph (2) of section 203 (a) (prior to the
7 amendment made by subsection (a) of this section) is re-
8 designated as subparagraph (B) (of paragraph (3)), its
9 three lettered subparagraphs are respectively redesignated
10 as clauses (i), (ii), and (iii), its initial word is stricken and
11 “When” inserted instead, and “, or” as it appears at the end
12 thereof is stricken and a period inserted instead.

13 (c) Paragraph (3) of section 203 (a) (prior to the
14 amendments made by the preceding provisions of this sec-
15 tion) is redesignated as subparagraph (C) (of paragraph
16 (3)), and its initial word is stricken and “When” inserted
17 instead.

18 (d) The matter in section 203 (a) that follows para-
19 graph (3) (prior to the amendments made by the preceding
20 provisions of this section) and precedes paragraph (4)
21 (prior to the amendments made by the preceding provisions
22 of this section) is stricken and there is inserted instead the
23 following:

24 “(4) In any case in which benefits are reduced pursuant
25 to the preceding provisions of this subsection, the reduction

1 shall be made after any deductions under this section and after
2 any deductions under section 222 (b). Whenever a reduction
3 is made under this subsection in the total of monthly benefits
4 to which individuals are entitled for any month on the basis
5 of the wages and self-employment income of an insured
6 individual, each such benefit other than the old-age or dis-
7 ability insurance benefit shall be proportionately decreased.”.

8 (e) Paragraph (4) of section 203 (a) (prior to the
9 amendments made by the preceding provisions of this sec-
10 tion) is redesignated as paragraph (5), its initial word is
11 stricken and “Notwithstanding” inserted instead, and “, or”
12 at the end thereof is stricken and a period inserted instead.
13 The matter following subparagraph (B) of this paragraph
14 and preceding the next numbered paragraph is a portion of
15 the redesignated paragraph (5), and shall be indented
16 accordingly.

17 (f) Paragraph (5) of section 203 (a) (prior to the
18 amendments made by the preceding provisions of this sec-
19 tion) is repealed, except with respect to an individual who
20 became eligible for a monthly benefit or died prior to 1979.

21 (g) Following paragraph (5) of section 203 (a) (as
22 amended by this section) there is added the following new
23 paragraphs:

24 “(6) In the case of any individual who is entitled for
25 any month to benefits based upon the primary insurance

1 amounts of two or more insured individuals, one or more of
2 which primary insurance amounts were determined under
3 section 215 (a) or 215 (d) as in effect (without regard to
4 the table contained therein) prior to January 1979 and one
5 or more of which primary insurance amounts were deter-
6 mined under section 215 (a) (1) or (4), or 215 (d), as in
7 effect after December 1978, the maximum benefit payable
8 to that individual (or the total benefits payable to that
9 individual and all other individuals entitled to benefits for
10 that month based upon those primary insurance amounts)
11 shall be reduced to an amount equal to the product of 1.75
12 and the primary insurance amount that would be computed
13 under section 215 (a) (1) for that month with respect to
14 average indexed monthly earnings equal to one-twelfth of
15 the contribution and benefit base determined for the year in
16 which that month occurs under section 230.

17 “(7) Subject to the preceding paragraph, this subsec-
18 tion, as in effect in December 1978, shall remain in effect
19 with respect to a primary insurance amount computed under
20 section 215 (a) or (d), as in effect (without regard to the
21 table contained therein) in December 1978, except that a
22 primary insurance amount so computed with respect to an
23 individual who first becomes eligible for an old-age or dis-
24 ability insurance benefit, or dies, after December 1978 shall,

1 instead, be governed by this section, as in effect after
2 December 1978.”

3 CONFORMING CHANGES

4 SEC. 204. (a) Section 202 (m) (1) is amended to read
5 as follows:

6 “(1) In any case in which an individual is entitled
7 to a monthly benefit under this section on the basis of a
8 primary insurance amount computed under section 215
9 (a) or (d), as in effect after December 1978, on the
10 basis of the wages and self-employment income of a de-
11 ceased individual for any month and no other person is
12 (without the application of subsection (j) (1)) entitled
13 to a monthly benefit under this section for that month on
14 the basis of those wages and self-employment income,
15 the individual’s benefit amount for that month, prior
16 to reduction under subsection (k) (3), shall not be less
17 than that provided by subparagraph (C) (I) or (C)
18 (II) (whichever is greater) of section 215 (a) (1). In
19 any case in which an individual is entitled to a monthly
20 benefit under this section on the basis of a primary insur-
21 ance amount computed under section 215 as in effect
22 (without regard to the table contained therein) prior to
23 January 1979, that monthly benefit shall be determined

1 under this section as in effect as prescribed by section
2 215 (a) (5).”.

3 (b) Section 217 (b) (1) is amended by inserting “as in
4 effect in December 1978” after “section 215 (c)” each time
5 it appears, and after “section 215 (d)”.

6 (c) Section 224 (a) is amended in the matter follow-
7 ing paragraph (8) by inserting “(determined under section
8 215 (b) as in effect prior to January 1979)” after “(A) the
9 average monthly wage”.

10 (d) Section 226 (a) (2) is amended by inserting after
11 “section 202” the following: “, or would be entitled to those
12 benefits except that he has not filed an application therefor
13 (or application has not been made for a benefit the entitle-
14 ment to which for any individual is a condition of entitle-
15 ment therefor) and, in conformity with regulations of the
16 Secretary, files an application for entitlement to hospital in-
17 surance benefits under part A of title XVIII.”.

18 (e) Section 1839 (c) (3) (B) is amended to read as
19 follows:

20 “(B) the monthly premium rate most recently
21 promulgated by the Secretary under this paragraph, in-
22 creased by a percentage determined as follows: The Sec-
23 retary shall ascertain the primary insurance amount
24 computed under section 215 (a) (1), based upon av-

1 erage indexed monthly earnings of \$900, that applied
 2 to individuals who became eligible for and entitled to
 3 old-age insurance benefits on May 1 of the year of the
 4 promulgation. He shall increase the monthly premium
 5 rate by the same percentage by which that primary in-
 6 surance amount is increased when, by reason of the law
 7 in effect at the time the promulgation is made, it is so
 8 computed to apply to those individuals on the following
 9 May 1.”

10 EFFECTIVE DATE PROVISIONS

11 SEC. 205. Except for section 202 (d), this Act is effec-
 12 tive with respect to monthly benefits and lump-sum death
 13 payments under title II of the Social Security Act payable
 14 for months after December 1978. Section 202 (d) is effec-
 15 tive with respect to monthly benefits of an individual who
 16 becomes eligible for an old-age or disability insurance benefit
 17 or dies after December 1977.

18 TITLE III—ELIMINATION OF GENDER-BASED
 19 DIFFERENCES IN STATUTORY PROVISIONS
 20 OF THE OLD-AGE, SURVIVORS, AND DIS-
 21 ABILITY INSURANCE PROGRAM

22 SHORT TITLE OF TITLE III

23 SEC. 301. This title may be cited as the “Social Security
 24 Equal Rights Amendments of 1977”.

Benefits for Divorced Men

DIVORCED HUSBANDS

1 SEC. 302. (a) (1) The matter immediately preceding
2 section 202 (c) (1) (A) is amended by inserting "and every
3 divorced husband (as defined in section 216 (d))" before
4 "of an individual" and by inserting "or such divorced hus-
5 band" after "if such husband".

6 (2) Section 202 (c) (1) is further amended:

7 (A) by redesignating subparagraphs (C) and (D)
8 as subparagraphs (D) and (E) and by inserting after
9 subparagraph (B) the following new subparagraph:
10

11 “(C) in the case of a divorced husband, is not
12 married.”;

13 (B) by striking out everything after “occurs.” and
14 inserting in lieu thereof the following new subpara-
15 graphs:
16

17 “(F) he dies,

18 “(G) such individual dies,

19 “(H) in the case of a husband, they are divorced
20 and either (i) he has not attained age 62, or (ii) he
21 has attained age 62 but has not been married to such
22 individual for a period of 20 years immediately before
23 the divorce became effective,

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

1 “(J) he becomes entitled to an old-age or disabil-
2 ity insurance benefit based on a primary insurance
3 amount which is equal to or exceeds one-half of the
4 primary insurance amount of such individual, or

5 “(K) such individual is not entitled to disability
6 insurance benefits and is not entitled to old-age insur-
7 ance benefits.”;

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

9 (D) by inserting “first” before “month in which
10 any”.

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

14 (4) Section 202 (c) is amended by inserting after para-
15 graph (3) the following new paragraph:

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

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

21 “(B) an individual who has attained the age
22 of 18 and is entitled to benefits under subsection
23 (d),

24 such divorced husband’s entitlement to benefits under
25 this subsection shall, notwithstanding the provisions of

1 paragraph (1) (but subject to subsection (s)), not be
2 terminated by reason of such marriage.”.

3 (5) The matter immediately preceding section 202 (c)
4 (2) (A) is amended by striking out “(C)” and inserting in
5 lieu thereof “(D)”.

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

8 (7) Section 202 (c) (1) (E), as redesignated by para-
9 graph (2) of this subsection, is amended by striking out “his
10 wife” and inserting in lieu thereof “such individual”.

11 Surviving Divorced Husbands

12 (b) (1) The matter immediately preceding section 202
13 (f) (1) (A) is amended by inserting “and every surviving
14 divorced husband (as defined in section 216 (d))” before
15 “of an individual” and by inserting “or such surviving di-
16 vorced husband” after “if such widower”.

17 (2) Subparagraph (E) and the matter following sub-
18 paragraph (G) of section 202 (f) (1) are each amended
19 by striking out “his deceased wife” and inserting in lieu
20 thereof “such deceased individual”.

21 (3) Paragraphs (3), (4), (6), and (7) of section 202
22 (f) are each amended by inserting “or surviving divorced
23 husband” after “widower” wherever it appears in such para-
24 graphs.

25 (4) Paragraph (3) of section 202 (f) is further

1 amended by striking out "his deceased wife" wherever it
2 appears in such paragraph and by inserting in lieu thereof
3 "such deceased individual", and by striking out "wife"
4 wherever it appears in such paragraph and by inserting in
5 lieu thereof "individual".

6 (5) Section 202 (f) (4) is further amended by striking
7 out "remarries" and inserting in lieu thereof "marries", and
8 by inserting "or surviving divorced husband's" after
9 "widower's".

10 (6) Section 202 (e) (3) (A) is amended by striking out
11 "(f)" and inserting in lieu thereof "(c), (f)".

12 (7) Section 202 (g) (3) (A) is amended by inserting
13 "(c)" before "(f)".

14 (8) Section 202 (h) (4) (A) is amended by inserting
15 "(c)," before "(e)".

16 Definitions of Divorced Husband; Surviving Divorced
17 Husbands

18 (c) (1) Section 216 (d) is amended by adding after
19 paragraph (4) the following new paragraphs:

20 " (5) The term 'divorced husband' means a man
21 divorced from an individual, but only if he has been mar-
22 ried to such individual for a period of 20 years immedi-
23 ately before the date the divorce became effective.

24 " (6) The term 'surviving divorced husband' means
25 a man divorced from an individual who has died, but

1 only if he has been married to the individual for a pe-
2 riod of 20 years immediately before the divorce became
3 effective.”.

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

6 “Divorced Spouses; Divorce”

7 Evidence, Procedure, and Certification

8 (d) (1) Section 205 (b) is amended by inserting “di-
9 vorced husband,” after “husband,” and “surviving divorced
10 husband,” after “widower,”.

11 (2) Section 205 (c) (1) is amended by inserting “sur-
12 viving divorced husband,” after “wife,”.

13 REMARriage OF SURVIVING SPOUSE BEFORE AGE 60

14 SEC. 303. Section 202 (f) (1) (A) is amended by strik-
15 ing out “has not remarried” and inserting in lieu thereof “is
16 not married”.

17 ILLEGITIMATE CHILDREN

18 SEC. 304. (a) Section 216 (h) (3) is amended by in-
19 serting “mother or” before “father” wherever it appears in
20 such section.

21 (b) Section 216 (h) (3) (A) (i) is amended by strik-
22 ing out everything after “daughter” at the end of clause
23 (III) thereof and inserting in lieu thereof “; or”.

24 (c) Section 216 (h) (3) (A) (ii) is amended by strik-

1 ing out everything after “time” and inserting in lieu thereof
2 “such applicant’s application for benefits was filed;”.

3 (d) Section 216 (h) (3) (B) (i) is amended by strik-
4 ing out everything after “daughter” at the end of clause
5 (III) thereof and inserting in lieu thereof “; or”.

6 (e) Section 216 (h) (3) (B) (ii) is amended by strik-
7 ing out “such period of disability began” and inserting in
8 lieu thereof “such applicant’s application for benefits was
9 filed”.

10 TRANSITIONAL INSURED STATUS

11 SEC. 305. (a) Section 227 (a) is amended by:

12 (1) striking out “wife” wherever it appears and
13 inserting in lieu thereof “spouse”;

14 (2) striking out “wife’s” wherever it appears and
15 inserting in lieu thereof “spouse’s”;

16 (3) striking out “she” wherever it appears and
17 inserting in lieu thereof “he”; and

18 (4) inserting “or section 202 (c)” after “section
19 202 (b)” wherever it appears.

20 (b) Section 227 (b) and section 227 (c) are amended
21 by:

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

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

3 (3) striking out “her” wherever it appears and in-
4 serting in lieu thereof “the”; and

5 (4) inserting “or section 202 (f)” after “section
6 202 (e)” wherever it appears.

7 (c) Section 216, as amended by section 302 of this
8 Act, is further amended by inserting as subsection (a)
9 thereof the following subsection and heading:

10 Spouse; Surviving Spouse

11 “(a) (1) The term ‘spouse’ means a wife as defined
12 in subsection (b) of this section or a husband as defined in
13 subsection (f) of this section.

14 “(2) The term ‘surviving spouse’ means a widow as
15 defined in subsection (c) of this section or a widower as
16 defined in subsection (g) of this section.”.

17 EQUALIZATION OF BENEFITS UNDER SECTION 228

18 SEC. 306. (a) Section 228 (b) (2) is amended by:

19 (1) striking out “the husband’s benefit” and in-
20 serting in lieu thereof “each of their benefits”;

21 (2) striking out “\$64.40” and inserting in lieu
22 thereof “\$48.30”; and

23 (3) striking out everything after “section 215 (i)”
24 the first time it appears in such section and inserting in
25 lieu thereof a period.

1 (b) Section 228 (c) (3) is amended to read as follows:

2 “(3) In the case of a husband or wife, both of whom
3 are entitled to benefits under this section for any month, the
4 benefit amount of each, after any reduction under paragraph
5 (1), shall be further reduced (but not below zero) by the
6 excess (if any) of (i) the total amount of any periodic bene-
7 fits under governmental pension systems for which the other
8 is eligible for such month, over (ii) the larger of \$48.30
9 or the amount most recently established in lieu thereof under
10 section 215 (i).”.

11 (c) The Secretary shall increase the amounts specified
12 in section 228, as amended by this section, to take account
13 of general benefit increases (as referred to in section 215
14 (i) (3)) and increases under section 215 (i) , which occurred
15 after June 1974.

16 FATHER'S INSURANCE BENEFITS

17 SEC. 307. (a) Section 202 (g) is amended by:

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

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

22 (3) in clause (1) (D), striking out “wife's” and
23 inserting in lieu thereof “a spouse's”;

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

1 (5) striking out "she" wherever it appears and
2 inserting in lieu thereof "he";

3 (6) striking out "mother" wherever it appears and
4 inserting in lieu thereof "parent";

5 (7) inserting "or father's" after "mother's" wher-
6 ever it appears;

7 (8) striking out "after August 1950"; and

8 (9) in clause (3) (A), inserting "this subsection,"
9 before "subsection (a)".

10 (b) The heading of section 202 (g) is amended by in-
11 serting "and Father's" after "Mother's".

12 (c) Section 216 (d), as amended by section 302 of this
13 Act, is further amended by adding after paragraph (6) the
14 following new paragraphs:

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

24 “(8) The term ‘surviving divorced parent’ means a sur-
25 viving divorced mother as defined in paragraph (3) of this

1 subsection or a surviving divorced father as defined in para-
2 graph (7) of this subsection.”.

3 (d) The matter following clause (B) of section 202
4 (g) (3) is amended by striking out “in the case of such a
5 marriage to an individual” and inserting in lieu thereof “in
6 the case of a marriage of a woman to a male”.

7 (e) The matter following section 202 (c) (1) (E), as
8 redesignated by section 302 (a) (2) of this Act, is amended
9 by inserting “(subject to subsection (s))” before “be en-
10 titled to”.

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

17 (g) Section 202 (c) (1), as amended by section 302
18 (a) (2) (B) of this Act, is amended by redesignating the
19 new subparagraphs (J) and (K) as (K) and (L), respec-
20 tively, and by adding after subparagraph (I) the following
21 new subparagraph:

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

25 (h) Section 202 (f) (1) (C) is amended by inserting

1 “(i)” after “(C)”, by adding at the end thereof “or” and
2 by inserting at the end of that section the following new
3 clause:

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

8 (i) Section 202(f)(6) is amended by striking out
9 “or” at the end of subparagraph (A), by inserting “or”
10 at the end of subparagraph (B), and by adding after sub-
11 paragraph (B) the following new subparagraph:

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

15 **EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY**

16 **BENEFICIARY**

17 **SEC. 308.** (a) The matter following clause (B) of sec-
18 tion 202(d)(5) is amended by striking out “a male” and
19 inserting in lieu thereof “an”.

20 (b) The amendment made by subsection (a) of this
21 section shall be effective with respect to benefits under title
22 II of the Social Security Act for months after the month of
23 enactment of this Act but only in cases where “the last
24 month” referred to in section 202(d)(5) is a month after
25 the month of enactment of this Act.

1 EFFECT OF MARRIAGE ON OTHER DEPENDENTS' OR DEPEND-
2 ENT SURVIVORS' BENEFITS

3 SEC. 309. (a) Section 202 (c) (4), as added by section
4 302 of this Act, is amended by inserting before the period
5 at the end thereof the following: “; except that, in the case
6 of such a marriage to an individual entitled to benefits under
7 subsection (d), the preceding provisions of this paragraph
8 shall not apply with respect to benefits for months after the
9 last month for which such individual is entitled to such bene-
10 fits under subsection (d) unless she ceases to be so entitled
11 by reason of her death”.

12 (b) Section 202 (f) (4) is amended by inserting before
13 the period at the end thereof the following: “; except that,
14 in the case of such a marriage to an individual entitled to
15 benefits under subsection (d), the preceding provisions of
16 this paragraph shall not apply with respect to benefits for
17 months after the last month for which such individual is
18 entitled to such benefits under subsection (d) unless she
19 ceases to be so entitled by reason of her death”.

20 (c) The matter following clause (B) of section 202
21 (g) (3), as amended by section 307 (d) of this Act, is
22 amended by striking out “in the case of a marriage of a
23 woman to a male” and inserting in lieu thereof “in the case
24 of such a marriage to an individual”.

1 (d) The matter following clause (B) of section 202 (h)
2 (4) is amended by striking out “a male” and inserting in
3 lieu thereof “an”.

4 (e) The amendments made by subsections (a), (b),
5 (c), and (d) of this section shall be effective with respect
6 to benefits under title II of the Social Security Act for months
7 after the month of enactment of this Act but only in cases
8 where “the last month” referred to in sections 202 (c) (4),
9 202 (f) (4), 202 (g) (3), or 202 (h) (4) is a month after
10 the month of enactment of this Act.

11 TREATMENT OF SELF-EMPLOYMENT INCOME IN COMMU-
12 NITY PROPERTY STATES

13 SEC. 310. (a) Section 211 (a) (5) of the Social Se-
14 curity Act and section 1402 (a) (5) of the Internal Revenue
15 Code, as amended, are each amended by striking out “hus-
16 band unless the wife exercises substantially all of the manage-
17 ment and control of such trade or business, in which case all
18 of such gross income and deductions shall be treated as the
19 gross income and deductions of the wife” and inserting in
20 lieu thereof “spouse who exercises the greater management
21 and control over the trade or business”.

22 (b) The amendment made by subsection (a) shall be
23 effective with respect to taxable years beginning after the
24 month of enactment of this Act.

1 CREDIT FOR CERTAIN MILITARY SERVICE

2 SEC. 311. Section 217 (f) is amended by striking out
3 “widow” each place it appears and inserting in lieu thereof
4 “surviving spouse” and by striking out “her” each place it
5 appears in paragraph (2) thereof and inserting in lieu
6 thereof “his”.

7 REVISED TEST FOR DEPENDENT’S BENEFITS

8 SEC. 312. (a) (1) Section 202 (b) (1) is amended by
9 redesignating subparagraphs (D) through (K) as subpara-
10 graphs (E) through (L), respectively, and by adding after
11 subparagraph (C) the following new subparagraph:

12 “(D) was dependent upon such individual, as de-
13 termined according to section 216 (1),”.

14 (2) Section 202 (b) is amended by redesignating para-
15 graphs (2) and (3) as paragraphs (3) and (4), respec-
16 tively, and by adding after paragraph (1) the following
17 new paragraph:

18 “(2) The provisions of subparagraph (D) of para-
19 graph (1) shall (subject to subsection (s)) not be appli-
20 cable in the case of any wife who—

21 “(A) (i) in the month prior to the month of her
22 marriage to such individual was entitled to, or on appli-
23 cation therefor and attainment of age 62 in such prior
24 month would have been entitled to, benefits under this

1 subsection or subsections (e) or (h), and (ii) with
2 respect to the benefits under this subsection or subsec-
3 tion (e) referred to in clause (i) of this subparagraph
4 has established her dependency (as determined under
5 section 216 (l)) on the individual on the basis of whose
6 wages and self-employment income she was or would
7 have been entitled to such benefits;

8 “(B) in the month prior to the month of her mar-
9 riage to such individual had attained age eighteen and
10 was entitled to, or in application therefor would have
11 been entitled to, benefits under subsection (d) ; or

12 “(C) in the month prior to the month of her mar-
13 riage to such individual was entitled to, or on application
14 therefor and attainment of the required age (if any)
15 would have been entitled to, a wife’s, widow’s, child’s
16 (after attainment of age 18), or parent’s insurance an-
17 nuity under section 2 of the Railroad Retirement Act
18 of 1974, as amended.”.

19 (b) (1) Section 202 (c) (1) (D), as redesignated by
20 section 302 (a) (2) of this Act, is amended to read as
21 follows:

22 “(D) was dependent upon such individual, as de-
23 termined according to section 216 (l),”.

24 (2) Section 202 (c) (2) (A) is amended by inserting
25 “(i)” after “(A)”, by striking out “subsection” and insert-

1 ing in lieu thereof “this subsection or subsections”, and by
2 striking out “(h);” and inserting in lieu thereof “(h), and
3 (ii) with respect to the benefits under this subsection or
4 subsection (f) referred to in clause (i) of this subparagraph
5 has established his dependency (as determined under section
6 216 (1)), or receipt of at least one-half support as determined
7 under sections 202 (c) or (f) as in effect prior to March
8 1977, on the individual on the basis of whose wages and self-
9 employment income he was or would have been entitled to
10 such benefits;”.

11 (3) Section 202 (c) (2) (C) is amended by inserting
12 “husband’s” before “widower’s”.

13 (c) (1) Section 202 (e) (1) is amended by redesignat-
14 ing subparagraphs (D) through (F) as subparagraphs (E)
15 through (G), respectively, and by adding after subpara-
16 graph (C) the following new subparagraph:

17 “(D) was dependent upon such individual, as de-
18 termined according to section 216 (1),”.

19 (2) Section 202 (e) is amended by redesignating para-
20 graphs (2) through (7) as paragraphs (3) through (8),
21 respectively, and by adding after paragraph (1) the fol-
22 lowing new paragraph:

23 “(2) The provisions of subparagraph (D) of paragraph
24 (1) shall (subject to subsection (s)) not be applicable in
25 the case of any individual who—

1 “(A) (i) in the month prior to the month of her
2 marriage to such individual was entitled to, or on appli-
3 cation therefor and attainment of age 62 in such prior
4 month would have been entitled to, benefits under this
5 subsection or subsections (b) or (h), and (ii) with re-
6 spect to the benefits under this subsection or subsection
7 (b) referred to in clause (i) of this subparagraph has
8 established her dependency (as determined under sec-
9 tion 216(l)) on the individual on the basis of whose
10 wages and self-employment income she was or would
11 have been entitled to such benefits;

12 “(B) in the month prior to the month of her mar-
13 riage to such individual had attained age eighteen and
14 was entitled to, or on application therefor would have
15 been entitled to, benefits under subsection (d); or

16 “(C) in the month prior to the month of her mar-
17 riage to such individual was entitled to, or on applica-
18 tion therefor and attainment of the required age (if
19 any), would have been entitled to, a wife’s, widow’s,
20 child’s (after attainment of age 18), or parent’s insur-
21 ance annuity under section 2 of the Railroad Retirement
22 Act of 1974, as amended.”.

23 (d) (1) Section 202(f) (1) (D) is amended to read as
24 follows:

1 “(D) was dependent upon such individual, as de-
2 termined according to section 216 (1),”.

3 (2) Section 202 (f) (2) (A) is amended by inserting
4 “(i)” after “(A)”, and by striking out “subsection (h);”
5 and inserting in lieu thereof “subsections (c) or (h), and
6 (ii) with respect to the benefits under this subsection or
7 subsection (c) has established his dependency (as deter-
8 mined under section 216 (1)), or receipt of at least one-half
9 support as determined under sections 202 (c) or (f) as in
10 effect prior to March 1977, on the individual on the basis of
11 whose wages and self-employment income he was or would
12 have been entitled to such benefits;”.

13 (3) Section 202 (f) (2) (C) is amended by inserting
14 “husband’s,” before “widower’s,”.

15 (e) Section 202 (g) (1), as amended by section 307
16 (a) of this Act, is further amended by striking out “and”
17 at the end of subparagraph (E), by inserting “and” at
18 the end of subparagraph (F), and by adding at the end
19 thereof the following new subparagraph:

20 “(G) was dependent upon such individual, as deter-
21 mined according to section 216 (1),”.

22 (f) Section 216 is amended by adding at the end thereof
23 the following new subsection:

1 "Dependency of a Spouse

2 " (1) For purposes of sections 202 (b) (1) (D), 202 (c)
3 (1) (D), 202 (e) (1) (D), 202 (f) (1) (D), and 202 (g)
4 (1) (G), a person was dependent upon the individual re-
5 ferred to in such sections (1) if such person's income (as
6 defined in regulations of the Secretary) was less than such
7 individual's income (as defined in regulations of the Secre-
8 tary) in the three years immediately preceding (A) the
9 month such individual became entitled to old-age or disability
10 insurance benefits, or, if such individual had a period of dis-
11 ability which did not end prior to the month in which he
12 became so entitled, the month such period began or the
13 month he became so entitled, or (B) in the case of such a
14 person who survives such an individual, the month specified
15 in subparagraph (A) of this paragraph or the month of such
16 individual's death or, if such individual had a period of dis-
17 ability which did not end prior to the month in which he
18 died, the month such period began or the month of his death,
19 and (2) such person files proof of such dependency (accord-
20 ing to regulations of the Secretary) within two years after
21 the applicable month specified in paragraph (1) of this sub-
22 section. In the case of a person who marries an individual in
23 the applicable three-year period specified in the preceding
24 sentence, such period shall instead be the period from the
25 date of such marriage to the end of such three-year period."

1 (g) The amendments made by this section shall be
2 effective with respect to benefits under title II of the Social
3 Security Act for months following the month of enactment
4 of this Act, except that such amendments shall not apply to
5 an individual who is entitled to, or, on application therefor,
6 would have been entitled to, benefits under sections 202 (b),
7 (c), (e), (f), or (g), or section 228, of such title for
8 the month this Act is enacted until such time as he is not
9 entitled to any such benefits under such sections for a month.

10 (h) For purposes of section 216 (1) of the Social Se-
11 curity Act, any proof of dependency required to be filed
12 by such section before the end of two years after the month
13 this Act is enacted shall be deemed to have been filed within
14 the required period specified in such section if such proof is
15 filed within two years after the month this Act is enacted.

16 CONFORMING AMENDMENTS

17 SEC. 313. (a) (1) Section 202 (e) (1) (B) is amended
18 by striking out "paragraph (5)" and inserting in lieu thereof
19 "paragraph (6)".

20 (2) Section 202 (e) (1) (F) (i) is amended by striking
21 out "paragraph (6)" and inserting in lieu thereof "para-
22 graph (7)".

23 (3) Section 202 (e) (1) (F) (ii) is amended by strik-
24 ing out "paragraph (5)" and inserting in lieu thereof "para-
25 graph (6)".

1 (4) Section 202 (e) (3), as redesignated by section
2 312 (c) (2) of this Act, is amended by striking out “para-
3 graph (4)” and inserting in lieu thereof “paragraph (5)”.

4 (5) Section 202 (e) (5), as redesignated by section
5 312 (c) (2) of this Act, is amended by striking out “para-
6 graph (3)” and inserting in lieu thereof “paragraph (4)”
7 and by striking out “paragraph (2)” and inserting in lieu
8 thereof “paragraph (3)”.

9 (6) Section 202 (e) (7), as redesignated by section
10 312 (c) (2) of this Act, is amended by striking out “para-
11 graph (5)” and inserting in lieu thereof “paragraph (6)”.

12 (7) Section 202 (g) (1) (D) is amended by striking
13 out “benefits” and inserting in lieu thereof “benefit”.

14 (8) Section 202 (k) (2) (B) is amended by striking
15 out “(e) (4)” each place it appears and inserting in lieu
16 thereof “(e) (5)”.

17 (9) Section 202 (k) (3) is amended in subparagraph
18 (A) by striking out “(e) (2)” and inserting in lieu thereof
19 “(e) (3)” and in subparagraph (B) by striking out “(e)
20 (4)” and inserting in lieu thereof “(e) (5)”.

21 (10) Section 202 (s) (2) is amended by striking out
22 “(b) (3)” and inserting in lieu thereof “(b) (4), (c) (4)”
23 and by striking out “(e) (3)” and inserting in lieu thereof
24 “(e) (4)”.

25 (11) Section 202 (s) (3) is amended by striking out

1 “(c) (2) (B) and (f) (2) (B)” and inserting in lieu thereof
2 “(b) (2) (B), (c) (2) (B), (e) (2) (B), and (f) (2)
3 (B)”, and by striking out “(b) (3)” and inserting in lieu
4 thereof “(b) (4), (c) (4)” and by striking out “(e) (3)”
5 and inserting in lieu thereof “(e) (4), (f) (4)”.

6 (12) Section 202 (b) (4) (A), as redesignated by sec-
7 tion 312 (a) (2) of this Act and as amended by section 302
8 (a) (6) of this Act, is further amended by inserting “(g),”
9 after “(f),”.

10 (b) Section 202 (p) (1) is amended to read as follows:

11 “(1) to file proof of support within the period of
12 time prescribed in section 202 (h) (1) (B) or proof of
13 dependency within the period of time prescribed in sec-
14 tion 216 (1), or”.

15 (c) Section 202 (q) (3) is amended in subparagraphs
16 (E), (F), and (G) by inserting “or surviving divorced
17 husband” after “widower”.

18 (d) Section 202 (q) (5) is amended:

19 (1) by inserting “husband’s or” before “wife’s”
20 each place it appears in that section;

21 (2) by inserting “he or” before “she” each place
22 it appears in that section;

23 (3) by inserting “his or” before “her” each place
24 it appears in that section;

1 (4) by striking out “woman” each place it ap-
2 pears and inserting in lieu thereof “individual”;

3 (5) in subparagraph (D) by inserting “widower’s
4 or” before “widow’s”; by inserting “wife or” before
5 “husband” each place it appears; by inserting “wife’s
6 or” before “husband’s” each place it appears; and by
7 inserting “father’s or” before “mother’s”.

8 (e) Section 202 (q) (6) (A) (i) is amended by strik-
9 ing out “or husband’s insurance” in subclause (I) and by
10 inserting “or a husband’s” after “a wife’s” in subclause (II).

11 (f) Section 202 (q) (7) is amended in subparagraph
12 (B) by inserting “husband’s or” before “wife’s”, by insert-
13 ing “he or” before “she”, and by inserting “his or” before
14 “her” and in subparagraph (D) by inserting “or widower’s”
15 after “widow’s”.

16 (g) Section 202 (s) (1) is amended by inserting “(c)
17 (1),” after “(b) (1),”.

18 (h) Section 203 (a) (3) is amended by inserting “, or
19 as a divorced husband under section 202 (c) or as a surviving
20 divorced husband under section 202 (f),” after “section 202
21 (e)” and by inserting “or divorced husband or surviving
22 divorced husband” after “such divorced wife or surviving
23 divorced wife”.

24 (i) Section 203 (b) is amended by inserting “or
25 father’s” after “mother’s”.

1 (j) Section 203 (c) is amended to read as follows:

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

8 “(1) in which such individual is under the age of
9 seventy-two and on seven or more different calendar
10 days of which he engaged in noncovered remunerative
11 activity outside the United States; or

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

19 “(3) in which such individual, if a widow or wid-
20 ower entitled to a mother’s or father’s insurance benefit,
21 did not have in his care a child of his deceased spouse
22 entitled to a child’s insurance benefit; or

23 “(4) in which such an individual, if a surviving
24 divorced mother or father entitled to a mother’s or
25 father’s insurance benefit, did not have in his care a

1 child of his deceased former spouse who (A) is his son,
2 daughter, or legally adopted child and (B) is entitled
3 to a child's insurance benefit on the basis of the wages
4 and self-employment income of his deceased former
5 spouse.

6 For purposes of paragraphs (2), (3), and (4) of this sub-
7 section, a child shall not be considered to be entitled to a
8 child's insurance benefit for any month in which paragraph
9 (1) of section 202(s) applies or an event specified in sec-
10 tion 222(b) occurs with respect to such child. Subject to
11 paragraph (3) of such section 202(s), no deductions shall
12 be made under this subsection from any child's insurance
13 benefit for the month in which the child entitled to such
14 benefit attained the age of eighteen or any subsequent month;
15 nor shall any deduction be made under this subsection from
16 any widow's insurance benefits for any month in which the
17 widow or surviving divorced wife is entitled and has not
18 attained age sixty-five (but only if she became so entitled
19 prior to attaining age sixty), or from any widower's insur-
20 ance benefit for any month in which the widower or surviv-
21 ing divorced husband is entitled and has not attained age
22 sixty-five (but only if he became so entitled prior to attain-
23 ing age sixty)."

24 (k) Section 203(d) is amended by inserting "divorced

1 husband,” after “husband,” and by inserting “or father’s”
2 after “mother’s” each place it appears.

3 (l) (1) Section 205 (b), as amended by section 302 (d)
4 (1) of this Act is further amended by inserting “surviving
5 divorced father,” after “mother,”.

6 (2) Section 205 (c), as amended by section 302 (d)
7 (2) of this Act, is further amended by inserting “surviving
8 divorced father,” after “surviving divorced mother,”.

9 (m) Section 216 (f) is amended by inserting “(c),”
10 before “(f)”.

11 (n) Section 216 (g) is amended by inserting “(c),”
12 before “(f)”.

13 (o) Section 222 (b) (1) is amended by striking out
14 “or” before “surviving divorced wife”, and inserting instead
15 a comma, and by inserting “, or surviving divorced husband”
16 after “surviving divorced wife”.

17 (p) Section 222 (b) (3) is amended by inserting “di-
18 vorced husband;” after “husband,”.

19 (q) Section 222 (b) (2) is amended by inserting “or
20 father’s” after “mother’s” each place it appears.

21 (r) Section 222 (d) (1) is amended by inserting “and
22 surviving divorced husbands” after “for widowers”.

23 (s) Section 223 (d) (2) is amended by striking out “or
24 widower” where that term appears in subparagraphs (A)

1 and (B) and inserting in lieu thereof “widower, or surviving
2 divorced husband”.

3 (t) Section 225 is amended by inserting “or surviving
4 divorced husband” after “widower”.

5 (u) (1) Section 226 (h) (3) is amended to read as
6 follows:

7 “(3) For purposes of determining entitlement to hos-
8 pital insurance benefits under subsection (b) any disabled
9 widow or widower age 50 or older who is entitled to mother’s
10 insurance benefits (and who would have been entitled to
11 widow’s insurance benefits by reason of disability if she had
12 filed for such widow’s benefits) or to father’s insurance bene-
13 fits (and who would have been entitled to widower’s insur-
14 ance benefits by reason of disability if he had filed for such
15 widower’s benefits) shall, upon application, for such hospital
16 insurance benefits be deemed to have filed for such widow’s
17 or widower’s benefits.”.

18 (2) For purposes of determining entitlement to hospital
19 insurance benefits under section 226 (h) (3), as amended by
20 paragraph (1) of this subsection, an individual becoming
21 entitled to such hospital insurance benefits as a result of the
22 amendments made by such paragraph shall, upon furnishing
23 proof of such disability within nine months after the month
24 of enactment of this Act, under such procedures as the Sec-
25 retary may prescribe, be deemed to have been entitled to

1 the widow's or widower's benefits referred to in section 226
2 (h) (3), as amended, as of the time he would have been
3 entitled to such widow's or widower's benefits if he had filed
4 a timely application therefor.

5 SEC. 314. The amendments made by sections 302, 303,
6 304, 305, 306, 307, 311, and 313 of this Act shall be effec-
7 tive with respect to benefits under title II of the Social Se-
8 curity Act for months after the month of enactment of this
9 Act.

95TH CONGRESS
1ST SESSION

H. R. 8218

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation of the system's benefit structure, and to eliminate from that system gender-based distinctions.

By Mr. BURKE of Massachusetts

JULY 12, 1977

Referred to the Committee on Ways and Means

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Background Materials for Hearings
on Social Security



JULY 18, 1977

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Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1977

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FOREWORD

The purpose of this publication is to provide members of the Social Security Subcommittee with background information on major social security issues that may be discussed at subcommittee hearings scheduled to begin on July 18. The following issues are summarized herein: short- and long-term financing, the retirement test, disability appeals, coverage under social security, the *Goldfarb* decision, totalization agreements, annual reporting, and freedom of information and privacy under the social security system.

More detailed information on these issues will be available to the subcommittee for markup sessions on social security legislation.

The cost estimates for the Administration proposals were prepared before the draft bill had been sent to Congress and may need to be revised to conform to the provisions of the bill.

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FINANCING THE SOCIAL SECURITY TRUST FUNDS

The social security system is the Nation's primary means of providing economic security to workers and their dependents or survivors in the event of retirement, death, or disability. There are presently over 33 million people receiving monthly social security benefits and about 108 million workers will contribute to the system this year.

The social security system is financed on a current-cost basis. That is, current taxes paid by workers and their employers are paid out to current beneficiaries. The benefits to present workers will be paid in the future by future workers. Any surplus paid into the trust funds remains in the funds as reserves to be used in the event that outgo from the funds exceeds income in a given year.

Payroll tax

The payroll tax is paid by employees, employers, and the self-employed. Funds are allocated as specified by law into the following trust funds to support the respective programs:

- (1) The old-age and survivors insurance trust fund (OASI);
- (2) The disability insurance trust fund (DI); and
- (3) The hospital insurance trust fund (HI), part A of medicare.¹

The following is a schedule of present law OASDHI payroll tax rates:

Present law tax rates

[In percent]

Calendar year	OASI	DI ¹	OASDI	HI	OASDHI
EMPLOYERS AND EMPLOYEES, EACH					
1977	4.375	0.575	4.95	0.90	5.85
1978	4.350	.600	4.95	1.10	6.05
1979	4.350	.600	4.95	1.10	6.05
1980	4.350	.600	4.95	1.10	6.05
1981	4.300	.650	4.95	1.35	6.30
1982	4.300	.650	4.95	1.35	6.30
SELF-EMPLOYED					
1977	6.1850	.8150	7.0	.90	7.90
1978	6.1500	.8500	7.0	1.10	8.10
1979	6.1500	.8500	7.0	1.10	8.10
1980	6.1500	.8500	7.0	1.10	8.10
1981	6.0800	.9200	7.0	1.35	8.35
1982	6.0800	.9200	7.0	1.35	8.35

¹ There is no separate tax for disability insurance but the amounts indicated are allocated from the OASDI tax under the law.

¹ Part B of medicare is financed by premium payments and payments from the General Treasury.

Taxable wage base

The payroll tax is applied to earnings up to a certain amount established by law. In 1977, the taxable wage base is \$16,500. Legislation enacted in 1972, which provided for automatic cost-of-living increases, also provided for automatic increases in the wage base. (It was thought that the benefit increases could be financed from the additional income which would result from rising wage levels.) Automatic wage base increases occur in the year after an automatic cost-of-living increase is effective, and the actual dollar increase is based on the increase in wages as reported to the Social Security Administration. A schedule of present and estimated future wage base levels follows:

Calendar year:	Contribution and benefit base
1977-----	\$16,500
1978-----	17,700
1979-----	18,900
1980-----	20,400
1981-----	21,900

In analyzing the financial status of the social security trust funds, it is important to view both the short term and long term financing and expenditures.

SHORT-TERM TRUST FUND FINANCING

Short-term deficit

Over the past 5 years, outlays from the old-age, survivors and disability insurance (OASDI) trust funds have been exceeding income. In 1970, the OASDI trust funds had a balance of about 1 year's outgo. At the beginning of 1977 the balance had been reduced to 47 percent of a year's outgo. This trend will continue, and the combined funds will be exhausted in 1982 unless action is taken by Congress to correct this situation. Considered separately the DI fund will be exhausted in 1979 and the OASI in the early 1980's.

The operations of the trust funds are extremely sensitive to changes in economic conditions. Outgo is higher than was estimated in the past because the rate of inflation during the last few years has been higher than had been expected, and under automatic increase provisions in the law, benefits have been raised more than was expected. On the other hand, although income is also higher than was expected, income has not risen fast enough to offset the effect of the rise in prices. In addition, the high rate of unemployment in recent years has resulted in fewer people contributing to the system, while the number of beneficiaries has increased.

Estimated operations of the OASI, DI, combined OASDI, and HI trust funds during calendar years 1976-81, based on the intermediate economic assumptions of the Board of Trustees

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of disbursements during year
OASI					
1976 ¹ -----	\$66.3	\$67.9	-\$1.6	\$35.4	54
1977-----	72.5	75.7	-3.2	32.2	47
1978-----	79.8	83.9	-4.1	28.2	38
1979-----	87.7	92.1	-4.4	23.8	31
1980-----	96.1	100.6	-4.5	19.3	24
1981-----	102.8	109.4	-6.7	12.7	18
DI					
1976 ¹ -----	8.8	10.4	-1.6	5.7	71
1977-----	9.6	12.1	-2.5	3.3	48
1978-----	10.8	13.6	-2.8	.5	24
1979 ² -----	11.8	15.4	-3.5	-3.1	3
1980 ² -----	12.7	17.4	-4.6	-7.7	(³)
1981 ² -----	14.6	19.5	-4.9	-12.5	(³)
OASDI					
1976 ¹ -----	75.0	78.2	-3.2	41.1	57
1977-----	82.1	87.7	-5.6	35.5	47
1978-----	90.7	97.5	-6.9	28.6	36
1979 ² -----	99.5	107.4	-7.9	20.7	27
1980 ² -----	108.9	118.0	-9.1	11.6	18
1981 ² -----	117.4	128.9	-11.5	.1	9
HI					
1976 ¹ -----	13.8	13.7	.1	10.6	77
1977-----	16.1	16.2	-.1	10.5	66
1978-----	20.9	19.0	1.9	12.4	55
1979-----	23.4	22.2	1.2	13.6	58
1980-----	25.6	25.7	-.1	13.5	53
1981-----	33.2	29.7	3.6	17.0	45

¹ Figures for 1976 represent actual experience.

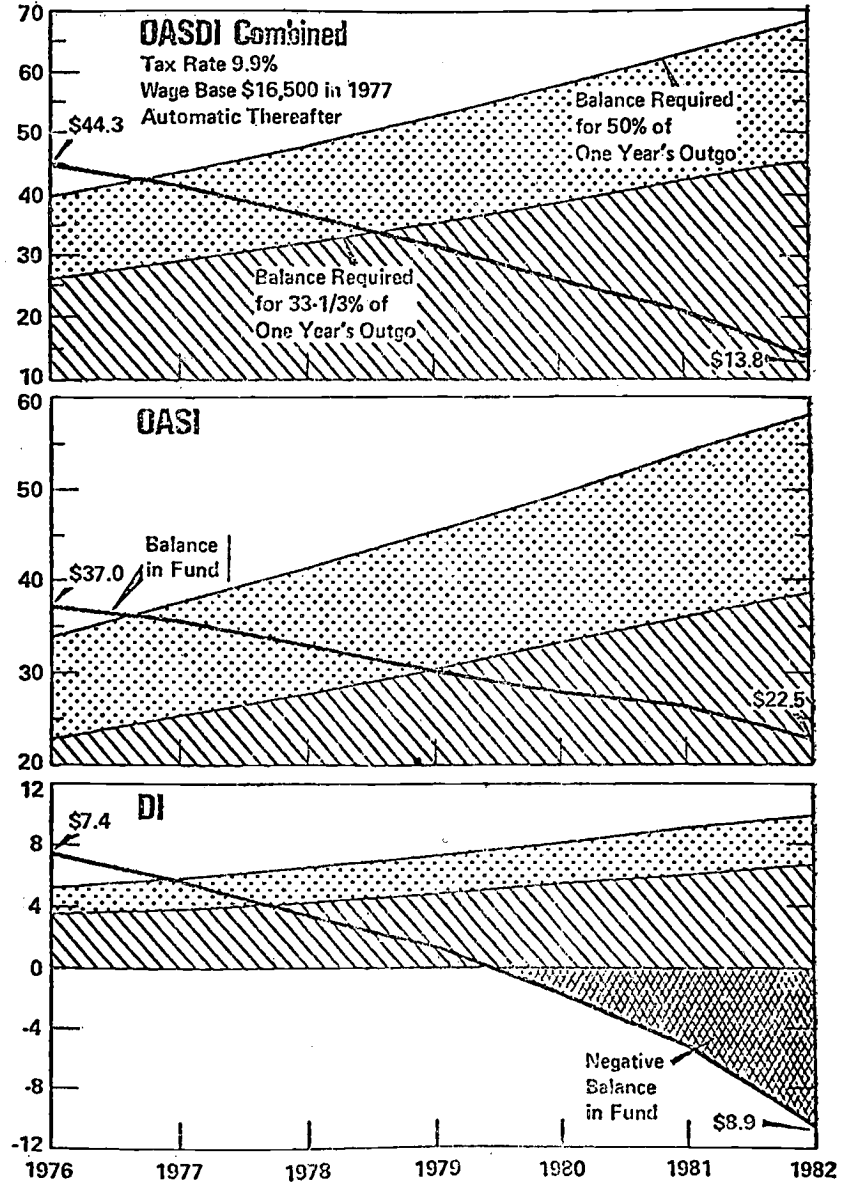
² Figures for 1979-81 are theoretical because it is estimated that the disability insurance trust fund will be exhausted in 1979.

³ Fund exhausted in 1979.

NOTE.—Totals do not necessarily equal the sum of rounded components.

Prospects Under Present Law, Based on 1978 Budget Economic Assumptions

Billions of Dollars



It is clearly evident that additional revenue is needed to deal with the short-term deficits of the trust funds. The condition of the disability insurance trust fund is so serious that social security actuaries have indicated that due to the way taxes are collected, a cash-flow problem may develop late in 1978 and there may not be sufficient funds to pay disability benefits when they are due.

Alternatives for short-term financing

There are basically three methods of increasing trust fund revenues:

- (1) Increasing the tax rate;
- (2) Increasing the taxable wage base; or
- (3) Using general revenue contributions.

The effect of any of these methods on the program and the tax-payers depends, of course, on the specific method or combination of methods used.

Reallocation

If short-term financing legislation is not enacted within a year, then the additional funds needed by the disability insurance program could be reallocated from the OASI fund or the HI fund. Such a transfer would require enabling legislation. Reallocations among the three trust funds have been legislated in the past. However, this measure should be considered as a last resort, inasmuch as it merely postpones, and for only a very short time, dealing directly with the basic financing problem.

THE ADMINISTRATION'S SHORT-TERM FINANCING PROPOSALS

The administration has recommended several changes which would provide sufficient income to enable the cash-benefits programs to meet their short-term financial obligations. Assuming that the trust funds should have year-end balances approximating 50 percent of the outgo anticipated for the following year, the administration estimates that the programs will require an additional \$83 billion in the period 1978-83. The changes it recommends would (1) reduce the amount needed by \$27 billion and (2) provide \$56 billion in additional income as follows:

The additional income would come from:

	<i>Billions</i>
Additional employer taxes ¹ -----	\$30
Additional employee taxes-----	4
Diversion of hospital insurance taxes-----	7
Increase in self-employment tax rate-----	1
Appropriation from general revenues ¹ -----	14
Total -----	56

The reduction would come from:

	<i>Billions</i>
Reducing the ratio of trust fund assets to expenditures from 50 percent to 35 percent-----	\$24
Adding a dependency requirement for spouses benefits-----	3
Total -----	27

¹ Includes new revenues initially going to hospital insurance (HI) fund but reallocated to cash benefit funds through transfers of the HI tax rate.

Additional employer taxes

The additional employer taxes would be provided by gradually removing the limitation on the amount of an individual's earnings that are taxed. Under the present law employers, employees, and the self-employed are taxed on the first \$16,500 of an individual's earnings. The amount taxed rises each year as average earnings rise. The administration recommends that this ceiling on the employer tax be removed in three steps. In 1979 the employer tax would apply to the first \$23,400 of an individual's wages, and in 1980 to the first \$37,500. Starting in 1981, the employer's total payroll would be taxed.

Additional employee taxes

The additional employee taxes would be provided by four rises in the amount of earnings subject to the employee tax. Each rise would be \$600 more than would be taxed under present law and would be effective in 1979, 1981, 1983, and 1985. The following table shows the estimated ceilings under present law and under the administration's recommendation.

	Employee contribution and benefit base		Portion of total earnings of employees and self-employed taxable under base (percent)	
	Present law	Administration proposal	Present law	Administration proposal
Year:				
1979.....	\$18,900	\$19,500	84	84
1980.....	20,400	21,000	84	84
1981.....	21,900	23,100	84	85
1982.....	23,400	24,600	84	85
1983.....	24,900	26,700	84	86
1984.....	26,400	28,200	84	86
1985.....	27,900	30,300	84	86
1986.....	29,400	32,100	84	86
1987.....	31,200	33,900	84	86
1988.....	33,000	35,700	84	86
1989.....	34,800	37,800	84	86
1990.....	36,900	39,900	84	86

Diversion of hospital insurance taxes

The present law requires that the hospital insurance program be financed by a payroll tax which is separate from the tax which supports the cash-benefits programs. In addition, the proceeds of the tax are permanently appropriated to the Federal hospital insurance fund which can be used only to meet the costs of the hospital insurance program. The amount of earnings taxed is subject to the same limitations as apply to the cash-benefits programs. The tax rate for 1977 is 0.9 percent and it is scheduled to rise to 1.1 percent in 1978 and to 1.35 percent in 1981 with additional increases in later years. The administration recommends that these rates be held to 1 percent in 1978 and to 1.15 percent in 1981 with the income that would otherwise go to the hospital insurance program being diverted to the cash-benefits programs through an increase in the OASDI tax rates. As a result, the cash-benefits tax rates would be increased in 1978 from 4.95 percent to 5.05 percent (an increase of 0.1 percentage point) and by an additional 0.1 percentage point (to 5.15 percent) in 1981.

Although the 1977 report of the trustees of the hospital insurance trust fund indicates that the program is adequately financed for about the next 5 years, it also indicates that the program has a long-term (25 year) deficit of 1.16 percent of payroll. The administration explains that the diversion of taxes from the hospital insurance program

to the cash-benefits programs is based on its recommendation for a cost containment program which would reduce cost by about \$10 billion through 1982. As a result, it recommends that about \$7 billion of the anticipated savings be transferred to the cash-benefits program.

The table which follows shows the effects of the administration recommendation on the hospital insurance trust fund.

Hospital insurance trust fund balances

Year	Start-of-year balance (billions)			Start-of-year balance as percent of outgo for year		
	Present law	Administration proposal		Present law	Administration proposal	
		Without containment	With containment		Without containment	With containment
1978-----	\$11	\$11	\$11	55	55	58
1979-----	12	12	13	56	53	60
1980-----	14	12	14	53	47	60
1981-----	14	11	16	45	39	59
1982-----	17	13	20	50	38	65
1983-----	19	12	23	50	31	67
1984-----	19	9	25	44	20	64
1985-----	17	2	24	34	5	56
1986-----	11	0	21	20	0	44
1987-----	6	-----	21	10	-----	38
1988-----	0	-----	18	0	-----	29
1989-----	-----	-----	12	-----	-----	18
1990-----	-----	-----	2	-----	-----	3
1991-----	-----	-----	0	-----	-----	0

Increase in self-employment tax rate

When earnings from self-employment were made subject to the social security tax in 1950, the rate was set at 1.5 times the employee rate. At that time the employee rate was 1.5 percent and the self-employment rate was 2.25 percent. Over the years as tax rates were increased, the 1.5 ratio was maintained until 1973 when the cash-benefits rate for the self-employed was frozen at 7 percent. (When the hospital insurance program was established the self-employment rate for that program was made equal to the employee rate and has remained equal as the rate has increased.) The Administration recommends increasing the self-employment tax rate for cash benefits according to the original ratio of 1.5 times the employee rate.

Changes in tax schedules

Changes in the social security tax schedule which would result from adoption of the administration recommendations are shown below.

Social security tax rates under present law and under the administration's recommendation

[Percent of taxable earnings]

	OASDI	OASI	DI	HI	Total
EMPLOYEES AND EMPLOYERS, EACH					
Present law:					
1977	4.950	4.375	0.575	0.900	5.850
1978-80	4.950	4.350	.600	1.100	6.050
1981-82	4.950	4.300	.650	1.350	6.300
1983-84	4.950	4.300	.650	1.350	6.300
1985	4.950	4.300	.650	1.350	6.300
1986-89	4.950	4.250	.700	1.500	6.450
1990-2010	4.950	4.250	.700	1.500	6.450
2011 and later	5.950	5.100	.850	1.500	7.450
Recommendation:					
1977	4.950	4.375	.575	.900	5.850
1978-80	5.050	4.300	.750	1.000	6.050
1981-82	5.150	4.350	.800	1.150	6.300
1983-84	5.150	4.300	.850	1.150	6.300
1985	5.400	4.550	.850	1.150	6.550
1986-89	5.400	4.475	.925	1.300	6.700
1990-2010	6.150	5.000	1.150	1.300	7.450
2011 and later	6.150	5.000	1.150	1.300	7.450
SELF-EMPLOYED PERSONS					
Present law:					
1977	7.000	6.185	.815	.900	7.900
1978	7.000	6.150	.850	1.100	8.100
1979-80	7.000	6.150	.850	1.100	8.100
1981-82	7.000	6.080	.920	1.350	8.350
1983-84	7.000	6.080	.920	1.350	8.350
1985	7.000	6.080	.920	1.350	8.350
1986-89	7.000	6.010	.990	1.500	8.500
1990-2010	7.000	6.010	.990	1.500	8.500
2011 and later	7.000	6.000	1.000	1.500	8.500
Recommendation:					
1977	7.000	6.185	.815	.900	7.900
1978	7.100	6.045	1.055	1.000	8.100
1979-80	7.600	6.470	1.130	1.000	8.600
1981-82	7.700	6.500	1.200	1.150	8.850
1983-84	7.700	6.430	1.270	1.150	8.850
1985	8.100	6.830	1.270	1.150	9.250
1986-89	8.100	6.710	1.390	1.300	9.400
1990-2010	9.200	7.480	1.720	1.300	10.500
2011 and later	9.200	7.480	1.720	1.300	10.500

Appropriation from general revenues

The administration recommends adoption of a "countercyclical" financing mechanism which would compensate the social security programs for the tax income which was not received because the unemployment rate exceeded 6 percent over the last few years. The administration has estimated that in the period 1975-78 \$14.1 billion

in social security taxes were not paid because of the high unemployment rate and recommends that this amount be appropriated to the trust funds in three installments:

	<i>Billions</i>
1978.....	\$6.5
1979.....	4.3
1980.....	3.3
Total.....	14.1

In testimony before both the House and Senate Subcommittees on Social Security the Secretary of Health, Education, and Welfare suggested that although this "countercyclical" mechanism might be an appropriate part of the permanent social security law, he recommends it only as a temporary measure until the Advisory Council on Social Security (to be appointed in 1977 and submit its final report by January 1, 1979) has an opportunity to consider the matter and make its recommendations.

Ratio of trust fund assets

The Administration's recommendations for additional short-term financing assume that the ratio of trust fund assets to anticipated annual expenditures should be about 50 percent. However, if the general revenue financing it recommends is provided, it believes that the ratio could be reduced to about 35 percent. As a result the additional funding for the period 1978-82 would be reduced by about \$24 billion, from \$83 billion to \$59 billion.

Dependency requirement for spouses benefits

The Social Security Act provides benefits for a wife or a widow without regard to her actual dependency on her husband. However, benefits for a husband or a widower are authorized in the law only if the husband received at least one-half of his support from his wife in the year before she became disabled, retired or died. Recently the Supreme Court ruled that the provision of the act requiring a husband or widower to establish his dependency was discriminatory and unconstitutional. Therefore, the Social Security Administration has begun to pay benefits to husbands and widowers even though they were not dependent on their wives.

The Administration recommends that the law be changed so that in the future benefits would be awarded to wives, widows, husbands and widowers only after showing that he or she had less than one-half of the couple's total income in the 3 years prior to the worker's retirement, disability, or death.

Additional revenues produced by administration recommendation

[In billions of dollars]

Year	Change in trust funds current law	Removing base for employers	Counter-cyclical general revenues	Increasing base for employees	Increasing self-employment tax rate	Reduced outgo ¹	Reallocation of part of HI rate	Added interest income	Total effect	Change in trust funds under plan
OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE										
1978	-6.9		+5.5			+0.1	+1.6	+0.3	+7.5	+0.6
1979	-7.9	+2.1	+3.6	+0.4	+0.1	+3	+2.0	+8	+9.3	+1.4
1980	-9.1	+5.0	+2.8	+5	+3	+6	+2.3	+1.5	+13.0	+3.9
1981	-11.5	+8.1		+9	+4	+9	+4.8	+2.5	+17.7	+6.1
1982	-14.9	+9.0		+1.0	+4	+1.5	+5.4	+3.7	+20.9	+6.0
HOSPITAL INSURANCE										
1978	+1.9		+1.0			+0.8	-1.6		+0.2	+2.2
1979	+1.2	+5	+7	+1		+1.3	-2.0	+0.1	+7	+1.4
1980	-.1	+1.1	+5	+1		+2.0	-2.3	+1	+1.5	+1.0
1981	+3.6	+2.2		+2		+2.7	-4.8	+2	+5	+4.9
1982	+2.3	+2.4		+3		+3.4	-5.4	+2	+9	+3.6
CUMULATIVE TOTAL, 1977-82										
OASDI	-50.3	+24.2	+11.9	+2.8	+1.2	+3.5	+16.1	+8.8	+68.4	+18.1
HI	+8.8	+6.2	+2.2	+7		+10.2	-16.1	+6	+3.7	+12.5
Total	-41.5	+30.4	+14.1	+3.5	+1.2	+13.6		+9.4	+72.1	+30.6

¹ Includes effect of institution of new dependency test, decoupling, and hospital cost containment.

Note: Individual items may not add to total due to rounding and hospital cost containment.

Estimated operations of the OASI and DI Trust Funds, combined, during calendar years 1977-87 under present law and under the program as modified by the administration's recommendations

[Dollar amounts in billions]

	Income		Outgo		Net increase in funds		Funds at end of year		Funds at beginning of year as a percentage of outgo during year	
	Present law	Admin- istration proposal	Present law	Admin- istration proposal	Present law	Admin- istration proposal	Present law	Admin- istration proposal	Present law	Admin- istration proposal
Calendar year:										
1977	\$82.1	\$82.1	\$87.7	\$87.7	-\$5.6	-\$5.6	\$35.5	\$35.5	47	47
1978	90.7	98.0	97.5	97.4	-6.9	.6	28.6	36.1	36	36
1979 ¹	99.5	108.5	107.4	107.1	-7.9	1.4	20.7	37.6	27	34
1980 ¹	108.9	121.3	118.0	117.4	-9.1	3.9	11.6	41.5	18	32
1981 ¹	117.4	134.1	128.9	128.0	-11.5	6.1	.1	47.6	9	32
1982 ¹	125.2	144.7	140.1	138.7	-14.9	6.0	-14.8	53.6	(²)	34
1983 ¹	132.9	155.1	152.1	149.9	-19.2	5.2	-34.0	58.9	(²)	36
1984 ¹	140.7	165.7	165.1	162.1	-24.4	3.6	-58.4	62.5	(²)	36
1985 ¹	148.4	184.8	179.2	175.4	-30.9	9.4	-89.3	71.9	(²)	36
1986 ¹	156.2	198.3	194.4	189.4	-38.2	8.9	-127.4	80.8	(²)	38
1987 ¹	164.4	211.7	210.5	204.4	-46.2	7.2	-173.6	88.0	(²)	40

¹ Because it is estimated that the DI trust fund will be exhausted in 1979 under present law, the figures for 1979-87 under present law are theoretical.

² Less than 0.5 percent.

³ Funds exhausted.

Estimated operations of the OASI Trust Fund during calendar years 1977-87 under present law and under the program as modified by the administration's recommendations

[Dollar amounts in billions]

	Income		Outgo		Net increase in funds		Funds at end of year		Funds at beginning of year as a percentage of outgo during year	
	Present law	Administration proposal	Present law	Administration proposal	Present law	Administration proposal	Present law	Administration proposal	Present law	Administration proposal
Calendar year:										
1977-----	\$72.5	\$72.5	\$75.7	\$75.6	-\$3.2	-\$3.1	\$32.2	\$32.3	47	47
1978-----	79.8	84.0	83.9	83.8	-4.1	.3	28.2	32.5	38	39
1979-----	87.7	92.6	92.1	91.8	-4.4	.8	23.8	33.3	31	35
1980-----	96.1	103.5	100.6	100.2	-4.5	3.3	19.3	36.6	24	33
1981-----	102.8	113.4	109.4	108.8	-6.7	4.6	12.7	41.3	18	34
1982-----	109.7	122.2	118.4	117.4	-8.7	4.8	4.0	46.1	11	35
1983 ¹ -----	116.7	129.7	127.9	126.4	-11.2	3.3	-7.3	49.3	3	36
1984 ¹ -----	123.9	138.3	138.3	136.2	-14.4	2.1	-21.7	51.4	(²)	36
1985 ¹ -----	131.1	155.5	149.5	146.8	-18.4	8.7	-40.1	60.2	(²)	35
1986 ¹ -----	136.9	164.6	161.4	158.0	-24.5	6.5	-64.6	66.7	(²)	38
1987 ¹ -----	144.3	175.3	174.1	170.0	-29.7	5.3	-94.4	72.0	(²)	39

¹ Because it is estimated that the OASI trust fund will be exhausted in 1983 under present law, the figures for 1983-87 under present law are theoretical.

² Trust fund exhausted in 1983.

Estimated operations of the DI Trust Fund during calendar years 1977-87 under present law and under the program as modified by the administration's recommendations

[Dollar amounts in billions]

Calendar year:	Income		Outgo		Net increase in funds		Fund at end of year		Fund at beginning of year as a percentage of outgo during year	
	Present law	Admin- istration proposal	Present law	Admin- istration proposal	Present law	Admin- istration proposal	Present law	Admin- istration proposal	Present law	Admin- istration proposal
	1977-----	\$9.6	\$9.6	\$12.1	\$12.1	-\$2.5	-\$2.5	\$3.3	\$3.3	48	48
1978-----	10.8	14.0	13.6	13.6	-2.8	.4	.5	3.6	24	24
1979 ¹ -----	11.8	15.9	15.4	15.3	-3.5	.6	-3.1	4.2	3	24
1980 ¹ -----	12.7	17.8	17.4	17.2	-4.6	.6	-7.7	4.8	(²)	24
1981 ¹ -----	14.6	20.7	19.5	19.2	-4.9	1.5	-12.6	6.3	(²)	25
1982 ¹ -----	15.5	22.4	21.7	21.2	-6.2	1.2	-18.8	7.6	(²)	30
1983 ¹ -----	16.2	25.5	24.1	23.5	-8.0	2.0	-26.7	9.5	(²)	32
1984 ¹ -----	16.8	27.4	26.8	25.9	-10.0	1.5	-36.7	11.0	(²)	37
1985 ¹ -----	17.3	29.3	29.8	28.6	-12.4	.7	-49.2	11.7	(²)	39
1986 ¹ -----	19.3	33.8	33.0	31.4	-13.6	2.4	-62.8	14.1	(²)	37
1987 ¹ -----	20.0	36.3	36.4	34.4	-16.4	1.9	-79.2	16.0	(²)	41

¹ Because it is estimated that the DI trust fund will be exhausted in 1979 under present law, the figures for 1979-87 are theoretical.

² Fund exhausted in 1979.

LONG-TERM FINANCING—"DECOUPLING"

Long-term deficit

Over the 75-year period covered by the long-term actuarial cost estimates, the OASDI taxes provided under present law are estimated to provide income averaging 10.99 percent of taxable payroll while the benefits authorized are estimated to have an average cost of 19.19 percent of taxable payroll. The deficit is 8.20 percent of taxable payroll.

Estimated expenditures under present law of old-age, survivors, and disability insurance system as percent of taxable payroll for selected years, 1977-2055

[In percent]

Calendar year	Expenditures as percent of taxable payroll ¹			Tax rate in law	Difference
	Old-age and survivors insurance	Disability insurance	Total		
1977	9.40	1.50	10.91	9.90	-1.01
1978	9.37	1.53	10.89	9.90	-.99
1979	9.30	1.55	10.86	9.90	-.96
1980	9.21	1.59	10.80	9.90	-.90
1981	9.24	1.65	10.88	9.90	-.98
1982	9.31	1.70	11.01	9.90	-1.11
1983	9.40	1.77	11.17	9.90	-1.27
1984	9.51	1.84	11.35	9.90	-1.45
1985	9.64	1.92	11.56	9.90	-1.66
1986	9.77	1.99	11.76	9.90	-1.86
1987	9.86	2.06	11.92	9.90	-2.02
1988	9.95	2.13	12.08	9.90	-2.18
1989	10.03	2.20	12.23	9.90	-2.33
1990	10.12	2.27	12.39	9.90	-2.49
1991	10.20	2.34	12.54	9.90	-2.64
1992	10.28	2.41	12.68	9.90	-2.78
1993	10.35	2.48	12.83	9.90	-2.93
1994	10.42	2.56	12.98	9.90	-3.08
1995	10.50	2.64	13.14	9.90	-3.24
1996	10.54	2.73	13.27	9.90	-3.37
1997	10.60	2.83	13.43	9.90	-3.53
1998	10.66	2.92	13.58	9.90	-3.68
1999	10.72	3.02	13.74	9.90	-3.84
2000	10.79	3.12	13.91	9.90	-4.01
2001	10.89	3.23	14.12	9.90	-4.22
2005	11.30	3.66	14.96	9.90	-5.06
2010	12.46	4.11	16.57	9.90	-6.67
2015	14.47	4.42	18.89	11.90	-6.99
2020	17.05	4.59	21.64	11.90	-9.74
2025	19.75	4.55	24.30	11.90	-12.40
2030	21.57	4.45	26.02	11.90	-14.12
2035	22.26	4.43	26.69	11.90	-14.79
2040	22.12	4.55	26.67	11.90	-14.77
2045	21.83	4.76	26.59	11.90	-14.69
2050	22.02	4.91	26.93	11.90	-15.03
2055	22.53	4.98	27.51	11.90	-15.61
25-yr averages:					
1977-2001	10.00	2.24	12.24	9.90	-2.34
2002-26	14.65	4.20	18.85	11.18	-7.67
2027-51	21.86	4.61	26.47	11.90	-14.57
75-yr average: 1977-					
2051	15.51	3.68	19.19	10.99	-8.20

¹ Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which incorporates ultimate annual increases of 5½ percent in average wages in covered employment and 4 percent in CPI, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

Replacement rates

Replacement rates (the relationship between a benefit awarded at retirement and the worker's earnings just before retirement) are a vital element of the social security system, and should be reasonably predictable over long periods of time.

Under present law, replacement rates can fluctuate widely in the future, either up or down, but most probably up, depending on future changes in wages and prices. In fact, under the present system and under current economic assumptions, benefits for persons with low earnings who go on the rolls in the next century would actually be higher than preretirement earnings. The cause of this instability is found in the automatic benefit increase mechanism which was enacted in 1972. This can be corrected by "decoupling" legislation to establish a new method of computing benefits which would stabilize replacement ratios. In considering a new benefit formula it is essential that Congress formulate a policy position concerning what the actual replacement rates should be.

Historical behavior and projections of replacement rates under present program

- Initial average benefit same as in present law
- Workers earning records not indexed
- Benefit formula bend points not indexed
- Benefit formula factors CPI indexed (*ad hoc* increases prior to 1975)

[In percent]

Year:	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1955---	\$2, 141	31	45	31	3. 3	1. 3
1960---	2, 493	33	45	30	5. 9	2. 3
1965---	2, 665	32	43	33	8. 0	2. 8
1970---	2, 987	34	46	29	8. 1	3. 4
1975---	3, 619	43	56	30	10. 7	4. 6
1979---	4, 415	46	58	35	10. 9	4. 5
1985---	5, 258	48	60	34	11. 6	4. 8
1990---	5, 766	49	63	36	12. 4	5. 1
1995---	6, 360	49	66	36	13. 1	5. 4
2000---	7, 273	52	76	38	13. 9	5. 7
2010---	9, 334	56	84	42	16. 6	6. 8
2020---	11, 733	60	91	44	21. 6	8. 9
2030---	14, 558	63	97	45	26. 0	10. 7
2040---	17, 892	66	102	47	26. 7	11. 0
2050---	21, 830	68	106	48	26. 9	11. 1

	Percent
Average medium-range cost (1977-2001).....	12. 2
Average medium-range revenue.....	9. 9
Average medium-range deficit.....	-2. 3
Average long-range cost (1977-2051).....	19. 2
Average long-range revenue.....	11. 0
Average long-range deficit.....	-8. 2

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Decoupling

Social security experts agree that the benefit structure must be "decoupled," that is, the current workers' future benefits be separated from those beneficiaries currently on the rolls and that the automatic cost-of-living increases will apply only to those retirees on the rolls. This requires a new benefit formula for new future beneficiaries with predictable results that would compensate for changes in earnings levels that have occurred during an individual's work years. The principal recommended way of doing this is to index the wages of workers and the formula itself. Two different methods of indexing have been recommended by social security experts: wage indexing and price indexing.

Wage indexing

- The actual earnings of a worker would be indexed by the *rate of increase in average wages* between the time of retirement and the year the wages were earned.
- Average earnings calculation would be based on a long averaging period of each worker's wage history, as under present law.
- Benefit calculation would be made by applying the new benefit formula to the average (indexed) earnings. Any dollar amounts in the formula would be adjusted annually to take account of annual changes in average earnings levels.
- Replacement rates would remain at approximate prevailing (1979) levels.
- The long-term deficit under present actuarial assumptions would be reduced by about half.
- Has been supported by the 1975 Social Security Advisory Council, National Council of Senior Citizens, NRTA-AARP, AFL-CIO.

Replacement rates under wage indexing

(Proposal recommended by Carter administration)

- Initial average benefit close to present law in 1979
- Workers earnings records wage indexed
- Benefit formula bend points wage indexed
- Benefit formula factors not indexed

[In percent]

Year:	Workers with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1979---	\$4,326	45	57	33	10.9	4.5
1985---	4,733	44	55	32	11.5	4.7
1990---	5,169	44	56	32	11.9	4.9
1995---	5,610	44	56	33	12.2	5.0
2000---	6,098	44	56	33	12.5	5.1
2010---	7,206	44	56	34	13.8	5.7
2020---	8,514	44	56	34	16.7	6.9
2030---	10,061	44	56	34	19.0	7.8
2040---	11,888	44	56	34	18.4	7.6
2050---	14,047	44	56	34	17.8	7.3

Average medium-range cost (1977-2001)-----	Percent
Average medium-range revenue-----	11.7
Average medium-range deficit-----	9.9
Average long-range cost (1977-2051)-----	-1.8
Average long-range revenue-----	15.1
Average long-range deficit-----	11.0
	-4.1

¹ Assumed to be 4 times the average 1st quarter covered earnings.² Assumed at \$4,600 in 1976 and following the trends of the average.³ Assumed at the maximum taxable under the program.⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement. The values in this table refer only to the Administration wage-indexing proposal and exclude the effect of all other benefit and financing modifications in the Administration proposal.

A variant—wage indexing at lower than prevailing benefit levels—which would result in constant but lower replacement rates and reduce the long-range deficit by more than one-half has been recommended by Robert J. Myers, the American Council of Life Insurance, and the NAM.

Replacement rates under wage indexing at reduced replacement rate level

(Proposal recommended by Robert J. Myers)

- Initial average benefit close to 10 percent below present law in 1979
- Workers earnings records wage indexed
- Benefit formula bend points wage indexed
- Benefit formula factors not indexed

[In percent]

Year:	Workers with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1979---	\$3, 893	40	51	30	10. 9	4. 5
1985---	4, 444	41	52	30	10. 9	4. 5
1990---	4, 829	41	52	30	11. 0	4. 5
1995---	5, 249	41	52	31	11. 2	4. 6
2000---	5, 705	41	52	32	11. 3	4. 6
2010---	6, 741	41	52	32	12. 4	5. 1
2020---	7, 966	41	52	33	15. 1	6. 2
2030---	9, 412	41	52	33	17. 1	7. 0
2040---	11, 121	41	52	33	16. 6	6. 8
2050---	13, 141	41	52	33	16. 0	6. 6

	<i>Percent</i>
Average medium-range cost (1977-2001)-----	11. 0
Average medium-range revenue-----	9. 9
Average medium-range deficit-----	- 1. 1
Average long-range cost (1977-2051)-----	13. 7
Average long-range revenue-----	11. 0
Average long-range deficit-----	- 2. 7

¹ Assumed to be 4 times the average 1st quarter covered earnings.² Assumed at \$4,600 in 1976 and following the trends of the average.³ Assumed at the maximum taxable under the program.⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Price indexing

- The actual earnings of a worker would be indexed by the *rate of inflation* between the year of retirement and the year the wages were earned.
- Average earnings calculation would be based on a long averaging period of each worker's history, as under present law.
- Benefit calculation would be made by applying the new benefit formula to the average (indexed) earnings. Any dollar amounts in the formula would be adjusted annually to take account of annual changes in inflation (as measured by the CPI).
- Replacement rates would decline below the prevailing (1979) levels.
- The long-term deficit under present actuarial assumptions would be virtually eliminated.
- Has been supported by the panel of consultants to the Congressional Research Service (Hsiao panel).

Replacement rates under price indexing

(Proposal recommended by panel of consultants to Congressional Research Service)

- Initial average benefit close to present law in 1979
- Workers earnings records CPI indexed
- Benefit formula bend points CPI indexed
- Benefit formula factors not indexed

[In percent]

Year:	Workers with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1979---	\$4,369	45	59	32	10.9	4.5
1985---	4,428	41	53	29	11.0	4.5
1990---	4,515	38	50	28	11.0	4.5
1995---	4,631	36	47	27	10.8	4.4
2000---	4,820	34	45	27	10.5	4.3
2010---	5,263	32	42	27	10.6	4.3
2020---	5,855	30	40	26	12.0	4.9
2030---	6,546	28	37	25	12.8	5.3
2040---	7,361	27	35	24	11.8	4.9
2050---	8,325	26	32	23	10.9	4.5

	<i>Percent</i>
Average medium-range cost (1977-2001)-----	10.8
Average medium-range revenue-----	9.9
Average medium-range deficit-----	— .9
Average long-range cost (1977-2051)-----	11.3
Average long-range revenue-----	11.0
Average long-range deficit-----	— .3

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

TOTAL IMPACT OF ADMINISTRATION FINANCING PROPOSALS ON LONG-RANGE FINANCIAL STATUS OF TRUST FUNDS

	<i>Percent of taxable payroll</i>
Deficit under present law.....	-8.2
Savings from decoupling.....	+4.1
Effect of:	
Employer base increases.....	+0.9
Employee base increases.....	+0.1
Self-employed tax increase.....	+0.1
Diversion of hospital taxes and acceleration of 2011 tax rate increase....	+1.0
Dependency tests.....	+0.1
Residual deficit.....	1-1.9

¹ While the Administration's proposals would assure sufficient financing for the next 25 years or so and maintain the reserve ratio above one-third in the 1980's, they would have a long-range deficit of 1.9 percent of taxable payroll, which is equal to about 12.6 percent of long range expenditures, under the program as it would be modified by the Administration's recommendations. The Administration says that this deficit is to be studied by the Social Security Advisory Council along with other benefit adequacy questions which would change the long range deficit.

THE RETIREMENT TEST

Under present law the retirement test for social security beneficiaries is applied on both an annual and a monthly basis. For example, in 1977 if an individual earns over \$3,000 during the year, then he loses \$1 in benefits for every \$2 earned over that amount. However, if an individual earns \$250 or less in any month, then he will be eligible for his entire monthly benefit for that month, even if his annual earnings exceed \$3,000.

The exempt amounts are scheduled to increase automatically every year following a year that an automatic cost-of-living increase is effective (estimated to be \$3,240 a year, or \$270 per month in 1978). Over the course of a year approximately 1.4 million persons aged 65 and over have some or all of their benefits withheld as a result of the retirement test.

Over 200 Members of the House have sponsored or cosponsored legislation to liberalize or eliminate the retirement test. Total elimination would be extremely costly—approximately \$6–\$7 billion in 1978; and 0.37 percent of payroll in the long range. However, there are other less expensive proposals. The following are cost estimates for proposals to increase the exempt amount to various levels:

Effective January 1978 increase exempt amount from \$3,240 to—	1st year additional cost in 1978 (billions)	Long-range cost (as percent of taxable payroll)	
		Decoupled	Coupled
\$3,600-----	\$0. 3	0. 04	0. 05
\$4,000-----	. 7	. 08	. 09
\$4,500-----	1. 2	. 12	. 14
\$4,800-----	1. 5	. 14	. 17
\$5,000-----	1. 6	. 16	. 19
\$5,500-----	2. 1	. 18	. 22
\$6,000-----	2. 5	. 20	. 24
\$6,500-----	2. 9	. 21	. 26
\$7,000-----	3. 2	. 22	. 27
\$7,500-----	3. 6	. 23	. 28

Alternative methods of revising the basic structure of the retirement test

1. Increase the monthly exempt amount (now \$250) by the amount, if any, by which the "maximum benefit of the type involved" exceeds the monthly benefit payable to a beneficiary.

First-year cost for 1978 (billion)-----	\$1. 1
Long-term cost as percent of payroll:	
Decoupled (percent)-----	0. 13
Coupled (percent)-----	0. 16

2. Reduce the age for exemption from the retirement test from 72 to 65.

First-year cost for 1978 (billion).....	\$2.9
Long-term cost as percent of payroll:	
Decoupled (percent).....	0.24
Coupled (percent).....	0.30

In comparing this proposal to total elimination of the retirement test, first-year costs are significantly less for reducing the age from 72 to 65. However, over the long run, the costs are fairly close—reducing the age to 65 is only 0.07 percent of payroll less than total elimination.

3. Reduce benefits at the rate of \$1 for every \$3 earned over the exempt amount, instead of reducing benefits at the rate of \$1 for every \$2 earned over the exempt amount.

First-year cost for 1978 (billion).....	\$1.1
Long-term cost as percent of payroll:	
Decoupled (percent).....	0.05
Coupled (percent).....	0.06

In the fiscal year 1978 budget, the Carter administration included a proposal to eliminate the monthly test of retirement except in the year of retirement, maintaining the test on an annual basis only. Under this proposal, if an individual earns over the annual exempt amount in any year, other than the year in which he first retired (\$3,000 in 1977), his benefits for any month in the year would be subject to deductions even if he earned less than the monthly measure in that month. Eliminating the monthly test means that people cannot earn large amounts of income working part of the year, and get social security for months they do not work. This proposal would result in savings of \$173 million in fiscal year 1978. (President Ford included the same proposal in his fiscal year 1977 budget.)

DISABILITY INSURANCE, APPEALS PROCESS, AND TEMPORARY ADMINISTRATIVE LAW JUDGES (ALJ'S)

Problems in the disability area, including vocational rehabilitation, and in the social security appeals area generally are discussed in the subcommittee print "H.R. 8076—Disability Insurance Amendments of 1977," which outlines the provisions of Mr. Burke's bill which was introduced on June 28, 1977. Another major problem involves the temporary ALJ's who were authorized by the subcommittee under Public Law 94-202 to adjudicate all types of social security cases. This legislation's added flexibility had reduced the hearings backlog from over 115,000 cases in mid-1975 to a low of about 80,000 cases a few months ago. At the present time, however, the hearing caseload is beginning to build up again and has passed 84,000. This is despite record productivity for the ALJ corps. The unwillingness or inability of the Civil Service Commission to convert temporary ALJ's to the regular corps is now causing major morale problem and is leading toward another appeals crisis. Only a handful of the 180 temporary ALJ's have been given permanent appointments and their existing positions expire by the terms of the legislation on December 31, 1978.

To resolve once and for all the status of these hearings officers, which has hampered the effective operation of the appeals process for 3 years, Mr. Burke, and some 60 cosponsors, introduced H.R. 5723 which blankets-in the temporary ALJ's into the regular corps. The legislation was jointly referred to Ways and Means and the Post Office and Civil Service Committees. On May 5, 1977, the Employee Ethics and Utilization Subcommittee held hearings on the legislation and the Civil Service Commission opposed the bill as undermining the merit system for choosing ALJ's. A committee print prepared by staff—"Background Material on H.R. 5723: Conversion of Temporary Social Security ALJ's"—suggests that there are many problems with the "merit" system and that the Civil Service Commission is not following the intent of Congress in giving credit for experience adjudicating disability cases. The Post Office and Civil Service Subcommittee postponed action on the bill for 45 days (until July 9) pending an attempt by the Bureau of Hearings and Appeals and the Civil Service Commission to work out a better system of "vouchering" and in awarding credit for social security adjudication experience. Staff has learned on an informal basis that the only concession made by the Civil Service Commission is a vague suggestion that it will give more weight to BHA evaluation of those temporary ALJ's who have qualified for the ALJ register. Since the major problem with the temporary ALJ's is their inability to get on the register in the first place, a meaningful administrative solution has not been achieved and legislative action appears to be still necessary.

COVERAGE

Universal coverage

Most discussions on the desirability of extending social security coverage conclude with favorable expressions as to the desirability of providing "universal coverage" as a concept but with reservations as to its practicality. By "universal coverage" these discussions do not mean extending coverage to all of the paid work performed in the United States. Rather they are concerned chiefly with extending compulsory coverage to Federal civilian employment, to employment for State and local governments, and to employment by nonprofit organizations. The relatively minor exceptions to compulsory coverage such as the provisions which allow clergymen, and the self-employed members of the Old Order Amish Church to opt out and the exclusions from coverage of newsboys and inmates of penal institutions, for example, presumably would be continued. This section, therefore, does not deal with universal coverage but is limited to the three major exclusions—Federal civilian employment, employment by State and local governments, and employment by nonprofit organizations.

FEDERAL CIVILIAN EMPLOYMENT

Present law

The Social Security Act excludes from coverage Federal civilian employment that is covered under a staff retirement system (such as the civil service retirement (CSR) system) established by a law of the United States. For the calendar quarter ending December 31, 1975, out of a total of 2.7 million Federal civilian employees about 2.4 million were excluded from social security coverage because they were covered under a Federal staff-retirement system. About 350,000 employees not covered under staff-retirement systems were covered by social security.

Two major problems.

The exclusion of Federal civilian employment from social security coverage causes two major problems for the large number of workers who shift between Federal employment and work covered under social security:

1. The first problem is that there are gaps in protection of many individuals who have worked under both the social security and CSR systems. Some individuals may qualify for benefits under only one system with the result that their benefits are not based on their lifetime earnings and contributions to both systems. Others fail to get benefits under either system. As an example, employees who become disabled or die after leaving Federal employment have no carry-over protection from their period of Federal service. The survivors or the disabled worker and his dependents may have no protection at all if the worker did not have enough employment covered under social security to become insured under social security. Also

80 percent of the workers who leave Federal employment before retirement withdraw their retirement contributions and thus have no retirement protection based on their Federal service even when they have worked long enough to qualify for an eventual pension.

There are also gaps in the disability and survivors protection of Federal employees who do not shift between Federal employment and other work but who have not completed very substantial periods of Federal service. It generally requires many more years of Federal service before a Federal civilian employee's family survivorship protection reaches the level that would have been provided under the social security system if his Federal service had been covered by social security. In some cases the CSR family survivorship protection never reaches the social security level regardless of the length of Federal service. In disability cases the CSR system guarantees a minimum benefit level after 5 years of Federal service for a disabled worker with no dependents which is generally higher than the benefit which would be payable under social security to a disabled worker with no dependents. However, if the disabled worker has dependents the CSR system family disability protection is in many cases less than social security would provide because social security provides benefits to family dependents while the CSR system provides benefits only to the disabled worker.

2. The second major problem resulting from the exclusion of Federal civilian employment from social security coverage is that many individuals who have worked under both the social security and CSR systems are able to qualify for social security benefits in addition to substantial CSR benefits. In many of these situations the social security benefits may be characterized as windfall benefits because, although they are in the lower benefit range, they are heavily weighted and represent a relatively high return on the worker's social security contributions. This situation is unfair to all workers covered under social security and to their employers who must bear the cost of the windfall social security benefits payable to Federal employees.

A special study conducted in 1969 by the Social Security Administration in cooperation with the Civil Service Commission indicated that about 43 percent of civil service retirees were entitled to social security benefits. This figure is probably closer to 50 percent today because of Public Law 89-504, which permitted Federal civil service employees, beginning in July 1966, to retire on an unreduced annuity at age 55 with 30 years of Federal service. As a result, many civil service employees now retire at younger ages and have more opportunity to acquire social security coverage; more civil service retirement annuitants are now under age 62, the age when social security retirement benefits are first payable. (On the other hand, the increasing social security insured status requirements make it somewhat more difficult for younger civil service employees to qualify for social security retirement benefits.)

Loss of income

Because Federal civilian employment is not covered under the social security program the income to the trust funds is some \$5 billion less this year than it might be. The Social Security Administration actuary estimates that if coverage were extended to all civilian employees of the Federal Government on January 1, 1980, the additional income to the cash-benefits trust funds would be:

Additional income

[In billions of dollars]

	OASDI	HI	Total
Calendar year:			
1980.....	5.1	1.1	6.2
1981.....	5.9	1.6	7.5
1982.....	6.7	1.8	8.5
1983.....	7.5	1.9	9.4
1984.....	8.5	2.1	10.6

If coverage were extended to all current civilian employees, it would be advisable to make changes in the civil service retirement program which would prevent the payment of excessive benefits and to reduce the cost of both employees and the Federal Government. (If no change were made in either program the combined 1981 cost to the employee and the employing agency under present law would be 26.1 percent of earnings up to \$21,900 and 14 percent on earnings above that amount.)

Because current Federal employees have built up expectations as to the retirement and survivor benefits they might qualify for under the present law, some have suggested that coverage could be extended only to (1) new employees or (2) employees with less than 5 years of Federal employment and who therefore could not qualify for a retirement annuity under present law without additional employment.

STATE AND LOCAL GOVERNMENT EMPLOYMENT

Present law

Social security coverage for employees of the States and their political subdivisions is available only through agreements between the Secretary of Health, Education, and Welfare and the States. Each State decides what groups will be covered, subject to provisions in the Federal law which assure retirement system members a voice in the coverage decision. Under these provisions, about 70 percent—some 8 million out of the approximately 12 million State and local employees—are covered under social security. Of approximately 4 million employees who are not covered, around 250,000 are in occupations that are excluded from coverage, e.g., university students. The great majority of those not covered under social security are covered under a State or local retirement system.

The social security law permits termination of coverage for employees of State and local governments. The action to terminate coverage must be taken by the State, rather than by the employees of the State and local governments involved. The State must give 2 years' advance notice of its desire to terminate social security coverage of the employees of a political subdivision and such notice cannot be given until after the coverage has been in effect for at least 5 years. The social security law also provides that once coverage has been terminated for a coverage group it can never again be provided for that group. In addition, the Secretary of Health, Education, and Welfare may terminate an agreement if after a hearing he finds that a State either had "failed or is no longer legally able to comply with any provision" of the agreement.

Constitutionality of compulsory coverage

The Social Security Act excludes from mandatory coverage all employment for States and localities, primarily because of the question of the constitutionality of any general levy of the employer tax on States and localities. In its report to the Committee on Ways and Means of the House of Representatives in 1939, the Social Security Board stated that "no method has yet been devised which would overcome constitutional difficulties and also protect the old-age insurance system against adverse selection."

There is, of course, no way to tell in advance how the courts would rule on a provision extending compulsory social security coverage to the States and localities. The most recent Supreme Court decision on a somewhat related matter (*National League of Cities v. Usery*) declared that it was unconstitutional to impose the requirements of the Fair Labor Standards Act on the States. The 5 to 4 decision was based on the Court's view of the constitutional relationship of the States to the Federal Government under the Commerce Clause but did not indicate whether similar limitations exist with respect to the power of the Federal Government to tax the States.

The Social Security Administration actuary estimates that if coverage were extended to all employees of State and local governments on January 1, 1980, the additional income to the cash-benefits programs would be:

Additional income

[In billions of dollars]

	OASDI	HI	Total
Calendar year:			
1980-----	4.0	0.9	4.9
1981-----	5.8	1.5	7.3
1982-----	6.6	1.7	8.3
1983-----	7.4	1.9	9.3
1984-----	8.4	2.1	10.5

Termination of coverage

By the early 1960's all States had made coverage agreements and the percentage of State and local employees covered under social security had reached its present level—about 70 percent of all State and local employees are covered under social security. During the 1950's and 1960's there were very few terminations of coverage—in many cases the terminations resulted from dissolutions and consolidations of political subdivisions. The number of State and local employees brought under coverage each year always well exceeded the number of terminations up until 1975. However, in 1975 the number of positions newly covered exceeded the number of positions terminated by only 1,905. Coverage was terminated for about 15,105 jobs in 1975, while only 17,010 additional jobs were covered under the coverage agreements.

In the past few years there has been an increasing trend in the termination of social security coverage. By March 1972 coverage had been terminated for 133 entities employing about 9,900 workers (an average of 74 workers per entity). As of December 1975 the number of entities

terminated had increased to 320, and the number of employees involved to about 42,035. (The terminations between 1972 and 1975 averaged 139 employees per entity.) The Social Security Administration expects the number of employees terminating to accelerate beginning this year based on notices filed by the States of the intent to terminate coverage. By December 1977, based on requests already received, the Social Security Administration expects coverage to be terminated for another 205 entities employing about 63,000 workers (an average of 307 employees per entity).

The following table shows the year-by-year terminations of coverage, including terminations which have not gone into effect but for which notifications of terminations have been filed by the State.

*Number of State and local government groups and employees whose social security coverage will have been terminated by Dec. 31, 1978—by year*¹

Year:	Number of groups	Number of employees
1959	1	3
1960	0	0
1961	1	5
1962	0	0
1963	2	41
1964	10	132
1965	4	105
1966	5	33
1967	11	323
1968	14	863
1969	21	1,369
1970	29	2,456
1971	33	2,843
1972	41	6,992
1973	33	4,616
1974	68	8,828
1975	47	13,426
1976	55	8,117
1977	150	² 54,860
1978	37	^{2 3} 449,940
Total	562	554,952

¹ First termination occurred in 1959. Figures for 1976 through 1978 based on notices of termination filed 1973 through March 1976.

² Notice termination may be withdrawn at any time before the end of the 2-year notice period.

³ About 391,500 of these are employees of New York City.

Source: Social Security Administration, Bureau of Data Processing.

Major problems

The exclusion of significant numbers of State and local government employees from social security coverage creates two broad classes of problems. One, regarding those employees who have never had coverage and the other involving those whose coverage is terminated. For both groups the gaps in protection and the availability of windfall benefits discussed earlier in connection with coverage of Federal civilian employees exist.

In addition special problems exist with regard to those for whom coverage is terminated. For example, when coverage is terminated for a group, some employees who wish to continue to be covered are nevertheless terminated because part of the group desires termination. This has occurred most frequently in the case of policemen and firemen who have aggressively campaigned for termination even though employees in the group who are not policemen or firemen have opposed termination. This is an especially serious situation because the staff-retirement protection for the policemen and firemen is often considerably more liberal than for other members of the group who suffer serious deficiencies in their protection when coverage is terminated.

The basic motivation for terminating coverage is to reduce costs to the Government, to the employee or to both. At the same time there appears to be a genuine attempt to reduce cost without impairing the protection provided to the individual workers. As a result, social security coverage has been terminated on the assumption that a new plan would provide comparable protection at a lower cost. However, this may not always be the case. Even if the alternative plan is to greatly improve the retirement system protection, often the additional costs resulting from the liberalizations are inadequately financed. In some cases the retirement systems are financed completely on a current cost basis which, while suitable for the social security program which is backed by the capacity of the national work force to finance it, is not desirable for a retirement plan for a relatively small group of employees. In other cases a State and local employer, due to a shortage of operating funds, may divert contributions intended for the retirement system to other purposes. In these cases there is a real future threat to the ability of the plan to continue paying its promised benefits.

Termination of coverage also has significant financial effects on the social security program. In many cases coverage is terminated after most of the employees have worked long enough to qualify for benefits. Where the benefits paid to these employees are based on less than a full working lifetime of covered employment, the weighted benefit formula results in benefit payments that provide an excessive return for the contributions paid on the workers earnings. Also, termination of coverage can create serious short-term financing problems. For example, when the city of New York announced that it would terminate coverage, the Social Security Administration estimated that income to the social security trust funds would be decreased by about \$3.1 billion in the period 1978 through 1982. (Since that time the city of New York has indicated that it would not go through with the plan to terminate coverage.) Thus, while the coverage termination may represent only a small percentage of total covered employment, it represents significant amounts of money.

Because termination of coverage can have adverse effects on individuals and the social security program there have been suggestions that if compulsory coverage of State and local government employment is not possible, consideration might be given to eliminating the provisions which permit a State to terminate coverage agreements.

EMPLOYMENT BY NONPROFIT ORGANIZATIONS

Present law

Work performed for a nonprofit religious, charitable, educational, or other tax-exempt organization specified in section 501(c)(3) of the Internal Revenue Code is covered under social security if the organization files a certificate with the Internal Revenue Service waiving its exemption from social security taxation. (Work performed for other nonprofit organizations is covered compulsorily.) Work performed by an employee of a tax-exempt nonprofit organization is covered only if the remuneration paid for such work is \$50 or more in a calendar quarter. The organization can elect up to 5 years of retroactive coverage for its employees at the time it files its waiver certificate. The waiver certificate must be accompanied by a list of workers who are employed when the waiver is filed, or were employed in the retroactive period, who desire to be covered under social security; employees hired (or rehired) in the future are covered compulsorily. The organization can amend the list of employees who desire coverage to include additional employees during the 2-year period following the calendar quarter in which the waiver certificate is filed.

Nonprofit organizations may terminate coverage for their employees upon giving 2 years' advance notice but the notice may not be given until the coverage has been in effect for at least 8 years. Also, the Secretary of the Treasury can terminate the coverage if an organization is no longer able to meet the requirements of section 501(c)(3) of the Code or if it is unable to pay the required social security contributions. Once coverage has been terminated for a nonprofit employer, the employer cannot again provide social security coverage for its employees.

About 90 percent of the roughly 4 million employees of nonprofit organizations included in section 501(c)(3) of the Internal Revenue Code are covered under social security. Of those employees not covered under social security about 210,000 could be covered if the employing organizations waived their tax-exempt status and the employees chose to be covered, and about 150,000 are excluded by Federal law because they are paid less than \$50 for work performed in a calendar quarter or because the services they perform are excluded from social security coverage. Over the years a total of about 133,000 organizations have waived their tax-exempt status and provided coverage for their employees. Coverage under the provisions in the law applicable to nonprofit employers has been terminated for about 131 of these organizations. (The number of employees whose coverage was terminated is not known.)

Compulsory coverage

Although the idea of voluntary coverage for nonprofit organizations is premised on the traditional tax exemptions provided to religious and charitable organizations, Congress could (if it wished to do so) extend compulsory coverage to employment for nonprofit organizations.

Public Law 94-563

Late in the 1976 session, the subcommittee approved a bill on nonprofit organizations which was enacted as Public Law 94-563 signed on October 19, 1976. The bill sought to deal with situations

which arose because the Internal Revenue Service had allowed thousands of nonprofits to pay social security taxes erroneously in that they had not filed the waivers necessary to cover their employees under social security. The bill accomplished its principal purpose of validating the taxes for the organizations and their employees. However, the bill also affected some other organizations in ways that were not intended. For example, it covered organizations which had learned they were paying the taxes erroneously and had not sought or received refunds but simply stopped paying the taxes. It had the effect of bringing these nonprofits back under social security and requiring them in some instances to pay considerable amounts to cover payment of back FICA taxes from the point that they stopped paying these taxes. The bill seems to have worked a hardship on some of these organizations and others in different situations.

THE GOLDFARB DECISION

There has been increasing concern over areas of sex discrimination under the social security system.

In *Califano v. Goldfarb*, decided on March 2, 1977, the Supreme Court ruled that the provision requiring widowers to prove dependency in order to collect benefits on their wives' records was unconstitutional. The Court later ruled that husbands do not have to prove dependency either. (Social security never required wives or widows to prove dependency in order to collect benefits, since the system was based on the premise that a woman was dependent on her husband.) The result of these decisions is that approximately 520,000 widowers and husbands are now eligible for benefits, costing the social security system about \$515 million in fiscal year 1978. The following is a breakdown of costs and beneficiaries concerning the decisions:

Cost and number of people affected by eliminating dependency for husbands and widowers

[Dollar amounts in millions]

Fiscal year	Total	Husbands	Widowers
I. Cost:			
1977.....	\$100	\$70	\$30
1978.....	515	270	245
1979.....	621	310	311
1980.....	588	309	279
1981.....	646	340	306
1982.....	707	372	335
<hr/>			
II. Number of people affected.....	520, 000	299, 000	221, 000

273,000 (114,000 husbands and 159,000 widowers) would get partial benefits because they are receiving social security benefits as workers.

247,000 (185,000 husbands and 62,000 widowers) would get full husbands' and widowers' benefits.

It is important to note that many of these husbands and widowers are civil service annuitants who will receive the social security benefits as a windfall. The following are legislative alternatives to the *Goldfarb* decision which would reduce the cost of paying benefits to spouses, widows, and widowers:

I. Administration proposal (see p. 9).

II. *Offset proposals*—Reduce the social security benefits for spouses and surviving spouses by the amount of any other governmental pension to which they are entitled.

A. Affecting wives, widows, husbands, and widowers who become eligible after implementation of offset legislation:

Reduction in outgo in fiscal year 1978 over present law: \$47 million.

Net cost of *Goldfarb* decision as modified: \$468 million (\$515 million — \$47 million).

Number of people who would have benefits completely or partially reduced by the offset in the first year: 25,000 husbands and widowers; 10,000 wives and widows.

B. Affecting wives, widows, husbands and widowers who became eligible after the *Goldfarb* decision:

Increase in outgo in fiscal year 1978 over law in effect prior to *Goldfarb*: \$38 million.

Net savings of *Goldfarb* decision as modified: \$477 million (\$515 million — \$38 million).

Number of people who would have benefits completely or partially reduced by the offset in the first year: 100,000 husbands and widowers; 10,000 wives and widows.

C. Affecting all wives, widows, husbands and widowers on the benefit rolls as well as new beneficiaries:

Reduction in outgo in fiscal year 1978 over present law: \$0.7 billion.

Net savings due to *Goldfarb* decision as modified: \$0.2 billion (\$0.7 billion — \$0.5 billion).

Number of people who would have benefits completely or partially reduced: 445,000 husbands and widowers; 190,000 wives and widows (180,000 wives and widows on rolls in addition to the numbers affected under Alternative A.)

III. *Dependency Requirement*—Establish a dependency requirement (one-half support) similar to the requirement applied to husbands and widowers prior to *Goldfarb*.

A. Affecting wives, widows, husbands and widowers who came on the rolls after implementation of legislation requiring dependency test:

Reduction in outgo for fiscal year 1978 over present law: \$108 million.

New cost of *Goldfarb* decision as modified: \$407 million (\$515 million — \$108 million).

Number of people who would have benefits eliminated: 30,000 husbands and widowers; 75,000 wives and widows.

B. Affecting wives, widows, husbands, and widowers who became eligible for benefits after the *Goldfarb* decision:

Reduction in outgo for fiscal year 1978 from law in effect prior to *Goldfarb*: \$141 million.

Net savings due to *Goldfarb* decision as modified: \$656 million (\$515 million + \$141 million).

Number of people who would have benefits eliminated: 550,000 husbands and widowers; 75,000 wives and widows.

C. Affecting all wives, widows, husbands and widowers on the benefit rolls:

Reduction in outgo for fiscal year 1978 from law in effect prior to *Goldfarb*: \$1.1 billion.

Net savings due to *Goldfarb* decision as modified: \$1.6 billion (\$1.1 billion + \$0.5 billion).

Number of people who would have benefits eliminated: 550,000 husbands and widowers; 1.1 million wives and widows.

TOTALIZATION

The Ford administration submitted a bill in 1976, the International Social Security Agreements Act (H.R. 14429), to give the President authority to enter into bilateral agreements on social security with interested countries. The subcommittee held a hearing on the bill in August. It is expected the bill will be resubmitted by the Carter administration.

The bill has two purposes: (1) to authorize agreements, known as totalization agreements, providing for limited coordination between the U.S. social security system and the systems of the other countries, and (2) to eliminate dual social security coverage for the same work in each country covered by an agreement.

Under an agreement, the periods of work in each country would be totalized so that many workers would qualify for benefits which they now are denied because they do not work long enough to qualify for a benefit under the system of one or both countries. To determine the amount of benefits payable based on combined earnings under the U.S. and foreign systems, each country would compute a theoretical social security benefit under its own laws based on covered work in both countries. However, each country would pay only a part of this benefit—the amount payable would be based on the proportion of total covered employment that was completed in the country paying the benefit. For example, if a worker had 8 years of work covered under the U.S. social security system and 8 years covered under the Italian social security system, the United States would compute a benefit based on the total 16 years of work but would pay only one-half of that benefit because only one-half of the total period of work was covered under the U.S. social security system. Italy would do the same.

The dual coverage provisions of an agreement would simply exempt from coverage under one system work covered under the other system. The exemption from coverage would depend on the nationality of the worker, where he ordinarily resides, and the country in which the work was performed. For example, a U.S. citizen working for a time in the branch office of a U.S. employer in Italy would remain covered under the U.S. system and would be exempted from coverage under the Italian system. This would tend to reduce the number of cases in which the worker would have covered work in more than one country and would therefore reduce the number of cases where totalization would apply.

The United States already has signed two totalization agreements—with Italy (1973) and West Germany (1976). These cannot take effect until the authorizing legislation has been enacted. Social Security Administration officials have testified that some discussions have taken place with other countries and that perhaps 15 agreements might eventually be negotiated. The proposed legislation is of special interest to many former German citizens now living in the United States. The agreement already signed would restore to these citizens a

right, cut off in 1972, to make voluntary contributions to the West German social security system and qualify for substantial benefits. It also could be of some benefit to persecutees driven out of prewar Germany who are seeking to make retroactive payments to the West German system and to former Germans who worked in areas which are now under communist governments and who are seeking to have this work counted for credit under the West German social security system.

SSA officials, in testimony last year, met an objection made by some members of the Social Security Subcommittee by agreeing that individual totalization agreements would be submitted to Congress 60 days before taking effect. This would give Congress an opportunity to review each agreement and its effect on our social security system.

The officials estimated in the initial years the legislation would result in \$4 million annually in additional OASDI payments to persons covered by the German and Italian agreements. In addition, they said elimination of dual coverage would reduce OASDI tax income by \$4 to \$7 million in the first years and by perhaps as much as \$25 million if 15 agreements eventually were in effect.

However, they said there would be a net gain of \$15 to \$20 million annually at the outset in the U.S. international balance-of-payments position, in large part because of a reduction in the amount of taxes U.S. employers would have to pay in social security taxes to West Germany and Italy.

First-year administrative costs were estimated at \$3.8 million. But after that year, the costs were estimated at about \$600,000 annually.

COMBINED ANNUAL WAGE REPORTING

Public Law 94-202 authorized employers to make a single annual report of wages for social security and Federal income tax purposes beginning in January 1978. That law, however, did not relieve the Social Security Administration of the need for quarterly wage information for determining the numbers of quarters of social security coverage which any individual earns, and consequently employers are still required to bear the burden of reporting quarterly wage data. (Quarters of coverage are used to determine whether a person has worked for a sufficient period of time in employment covered under social security to be eligible for benefits.)

The administration has therefore recommended the establishment of an annual wage reporting system under which quarterly wage information for each employee would no longer be reported by employers. A bill (H.R. 8057) to accomplish this has been introduced by Mr. Burke, the chairman of the subcommittee. Except for summary wage and tax liability information, which would continue to be filed quarterly with the Internal Revenue Service on form 941, only annual wages without a quarterly breakdown would be reported using the form W-2 as the annual report of wages for both social security and income tax purposes. With the exception of household employees, this would constitute the sole means of reporting income tax withholding and social security information on individual employees.

Under the annual reporting system, it would be necessary to measure a quarter of coverage in terms of annual earnings, since quarterly earnings data would no longer be available. (Under current law, a quarter of coverage is generally any calendar quarter in which an individual has been paid at least \$50 in wages.) Under H.R. 8057 an individual would earn one quarter of coverage for each \$250 of annual earnings, not to exceed four quarters of coverage in any calendar year. The annual earnings necessary for a quarter of coverage would be automatically increased on an annual basis to reflect increases in average wage levels.

FREEDOM OF INFORMATION AND PRIVACY IN THE SOCIAL SECURITY SYSTEM

There are four provisions of law or regulation affecting disclosure of records from the Social Security Administration:

- (1) Section 1106 of the Social Security Act;
- (2) Regulation No. 1;
- (3) Freedom of Information Act (FOIA) as amended by the "Government in the Sunshine Act"; and
- (4) The Privacy Act.

First, section 1106 of the Social Security Act permits, but does not require (except for use in locating absent parents and enforcing child support payments), disclosure of personally identifiable information contained in the social security system records. Second, Regulation No. 1 (20 CFR 401) prescribes what information the Social Security Administration may release without violating its pledge of confidentiality and only as necessary for the administration of the Social Security Act. Third, the Freedom of Information Act requires the disclosure of records and statistical data that do not relate to information of a personally identifiable nature. Fourth, the Privacy Act provides some safeguards against an invasion of personal privacy; it grants the individual the right of access to most information pertaining to him in a system of records, the right to obtain a copy of the records, and to request correction or amendment of the record.

The purpose of section 1106 of the Social Security Act is to prevent widespread dissemination of information of a personal nature gathered by the Social Security Administration in the administration of the Social Security Act. Section 1106 has provided the Secretary of Health, Education, and Welfare with broad discretion, except as otherwise provided by law, as to what information maintained by the Social Security Administration may be disclosed. Under the authority of section 1106, Regulation No. 1 governs the disclosure of personal information from social security files. Basically information can be disclosed only for the administration of the social security program, administration of Federal welfare, tax, and immigration laws, or as a service to individual participants in the program.

The Freedom of Information Act of 1967 provides for the broad disclosure of information in Federal files. The FOIA originally had little effect on the disclosure policies of the Social Security Administration with regard to personal information, because while the FOIA required that Federal agencies make records available upon request from an individual, section 1106 of the Social Security Act was considered to be an exempt statute under section 552(b)(3) of the FOIA.

The "Government in the Sunshine Act" (Public Law 94-409) which became effective March 12, 1977, amended section 552(b)(3) of the FOIA so that a Federal agency may refuse to disclose information exempted by statute only if the statute which serves as the basis

for refusal (a) requires that matters be withheld from the public in such a manner as to leave no discretion on the issue, or (b) establishes particular criteria for withholding or refers to particular matters to be withheld.

The report of the conference committee on the Sunshine Act made it clear that section 1106 of the Social Security Act as presently written is a statute whose terms do not bring it within this exemption. The effect of this amendment to the FOIA has been to require the disclosure of information previously protected by section 1106 and Regulation No. 1 unless another FOIA exemption applies, or unless another statute, which qualifies under section 552(b)(3) of the FOIA as an exempt statute, prohibits disclosure.

Disclosure of personal information from social security files is now governed by an interim regulation published in the Federal Register on March 16, 1977. In announcing the interim regulation, the Secretary of Health, Education, and Welfare indicated that the Department had undertaken an "indepth evaluation of existing policy" with the intention of establishing a final set of rules. He pointed out that the FOIA exempts from disclosure information "the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." As a result, he did not anticipate or intend any "significant change in the availability of beneficiary or worker information."

The Social Security Administration is also currently exploring the possibility of amending section 1106 of the Social Security Act to comply with section 552(b)(3) of the FOIA as amended by the Sunshine Act as a further safeguard for the personal information contained in social security files.

Under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), an agency is prohibited from releasing information to a third party or another agency, without the prior, written consent of the individual to whom the record pertains. In general, Regulation No. 1 was more restrictive in its disclosure policies than the Privacy Act, and the primary impact of that law on the social security system was to insure that an individual would have access to his or her own record. The protection of the Privacy Act against disclosure is limited in that the information to which it applies is that contained in a "system of records." Furthermore, while the Privacy Act prohibits the disclosure of personal information without the consent of the individual, there are 11 exceptions to this requirement which do permit disclosure. Among the 11 exceptions are (1) information required to be released under the Freedom of Information Act; (2) information required for operation of an agency; and (3) information ordered to be made available by a court of competent jurisdiction.

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Short-Term Financing of the
Social Security Trust Funds



SEPTEMBER 2, 1977

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U.S. GOVERNMENT PRINTING OFFICE

94-890

WASHINGTON : 1977

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SHORT-TERM FINANCING OF THE SOCIAL SECURITY TRUST FUNDS

The social security system is the Nation's primary means of providing economic security to workers and their dependents or survivors in the event of retirement, death, or disability. There are presently over 33 million people receiving monthly social security benefits and about 107 million workers who will contribute to the system this year.

The social security system is financed on a current-cost basis. That is, current taxes paid by workers and their employers are paid out to current beneficiaries. The trust funds form contingency reserves to be used in the event that, due to some unanticipated situation, outgo exceeds income in a given year or years.

PAYROLL TAX

The payroll tax is paid by employees, employers, and the self-employed. Funds are allocated as specified by law into the following trust funds to support the respective programs:

- (1) The old-age and survivors insurance trust fund (OASI);
- (2) The disability insurance trust fund (DI); and
- (3) The hospital insurance trust fund (HI), part A of medicare.¹

The following is a schedule of present law OASDHI payroll tax rates:

TABLE 1.—*Present law tax rates*

[In percent]					
Calendar year	OASI	DI ¹	OASDI	HI	OASDHI
EMPLOYERS AND EMPLOYEES, EACH					
1977	4.375	0.575	4.95	0.90	5.85
1978	4.350	.600	4.95	1.10	6.05
1979	4.350	.600	4.95	1.10	6.05
1980	4.350	.600	4.95	1.10	6.05
1981	4.300	.650	4.95	1.35	6.30
1982	4.300	.650	4.95	1.35	6.30
SELF-EMPLOYED					
1977	6.185	.815	7.0	0.90	7.90
1978	6.150	.850	7.0	1.10	8.10
1979	6.150	.850	7.0	1.10	8.10
1980	6.150	.850	7.0	1.10	8.10
1981	6.080	.920	7.0	1.35	8.35
1982	6.080	.920	7.0	1.35	8.35

¹ There is no separate tax for disability insurance but the amounts indicated are allocated from the OASDI tax under the law.

¹ Part B of medicare is financed by premium payments and payments from the General Treasury.

TAXABLE WAGE BASE

The payroll tax is applied to earnings up to a certain amount established by law. In 1977 the taxable wage base is \$16,500. Legislation enacted in 1972, which provided for automatic cost-of-living increases, also provided for automatic increases in the wage base. (It was thought that the cost of the benefit increases could be financed from the additional income which would result from rising wage levels including automatic increases in the contribution and benefit base.) These automatic increases occur in the year after an automatic cost-of-living increase is effective, and the actual dollar increase is based on the increase in wages as reported to the Social Security Administration. A schedule of present and estimated future wage base levels follows:

TABLE 2.—*Contribution and benefit base*

Calendar year:	
1977	\$16,500
1978	17,700
1979	18,900
1980	20,400
1981	21,900

SHORT-TERM FINANCING

Appropriate Trust Fund Size

The social security program has generally been considered adequately financed in the short term if (1) annual income is approximately equal to or slightly in excess of annual outgo and (2) the trust funds are large enough to weather moderate to severe recessions without increasing social security contributions until economic recovery is underway. There is a wide range of views on the appropriate near term trust fund level, ranging from very low (20 to 30 percent of annual outgo) to very large (over 100 percent).

The 1971 Advisory Council on Social Security recommended that the trust funds maintain a reserve ratio equal to 100 percent of annual outgo and that the trustees notify the Congress if the reserves were expected to go over 125 percent or under 75 percent. This recommendation was supported in principle by both the executive and legislative branches at the time it was put forward. Under the 1972 legislation (Public Law 92-603), the trust funds were expected to remain at about 80 percent of annual expenditures for a number of years and to gradually build to 100 percent. According to the estimates made at the time of the last major social security legislation in 1973, it was expected that there would be annual excesses of income over outgo over the short range, but the OASDI funds were projected to decline from about 72 percent of expenditures at the end of 1973 to about 62 percent at the end of 1977. At the time of the 1973 legislation, the recession was just getting underway and as a result of it, and much higher than expected cost-of-living increases, reserves have since fallen to less than 50 percent.

The Ford administration financing proposals in 1975 and 1976 were designed to prevent the reserve ratio from falling below one-third of annual outgo during the next 5 years in order to (1) prevent erosion

of public confidence, (2) provide some degree of protection against adverse economic conditions, and (3) provide time to take further steps to deal with longer range financing needs.

The Carter administration has recommended a reserve ratio of about 35 percent as a short-term goal (1982) if countercyclical general revenues are provided to protect the trust funds against the loss of income due to unemployment in excess of 6 percent. Without the general revenue proposal, the Carter administration believes the reserve ratio should be equal to 50 percent of annual outgo in order to meet the needs of the system during a recession as severe as the recent one.

Short-Term Deficit

Under the provisions of present law and the economic and demographic assumptions used by the Board of Trustees, the annual excess of outgo over income that began in 1975 is expected to continue and to grow each year into the future.

The short term is generally defined as the next 5 to 10 years, the medium range as the next 25 years (through 2001), and the long term as the next 75 years (through 2051). Although the near term deficits are quite small when compared to the deficits over longer periods, the current and projected deficit over the next 5 to 10 years is the most critical problem facing the program today.

In 1970, the OASDI trust funds combined had a balance of about 1 year's outgo. At the beginning of 1977 the balance had been reduced to 47 percent of a year's outgo. This trend will continue, and the combined funds will be exhausted in 1982 unless action is taken to correct this situation. The disability trust fund will be depleted in 1979 or even late 1978.

The operations of the trust funds are extremely sensitive to changes in economic conditions. Outgo is higher than was estimated in the past because the rate of inflation during the last few years has been higher than had been expected, and under the automatic benefit increase provisions in the law, benefits have been increased more than was expected. Although income has also been higher than was expected, it has not been enough to offset the increase in outgo due to the rapid rise in benefits. In addition, the high rate of unemployment in recent years has resulted in fewer people contributing to the system than was previously expected while the number of beneficiaries is higher than estimated. Finally, the experience in the disability program has been extremely adverse.

TABLE 3.—Estimated operations of the OASI, DI, combined OASDI, and HI trust funds during calendar years 1976–81, based on the intermediate economic assumptions of the 1977 Report of the Board of Trustees

[Dollar amounts in billions]

Calendar year	Income	Disbursements	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of disbursements during year
OASI					
1976 ¹	\$66.3	\$67.9	-\$1.6	\$35.4	54
1977	72.5	75.6	-3.1	32.3	47
1978	79.8	84.0	-4.2	28.1	38
1979	87.7	92.0	-4.3	23.8	31
1980	96.1	100.6	-4.4	19.4	24
1981	102.8	109.4	-6.7	12.7	18
DI					
1976 ¹	8.8	10.4	-1.6	5.7	71
1977	9.6	12.0	-2.4	3.3	48
1978	10.9	13.6	-2.8	.5	24
1979 ²	11.8	15.3	-3.5	-3.0	3
1980 ²	12.8	17.4	-4.6	-7.6	(³)
1981 ²	14.6	19.5	-4.9	-12.5	(³)
OASDI					
1976 ¹	75.0	78.2	-3.2	41.1	57
1977	82.1	87.6	-5.5	35.6	47
1978	90.7	97.6	-7.0	28.6	36
1979 ²	99.6	107.4	-7.8	20.8	27
1980 ²	108.9	117.9	-9.0	11.8	18
1981 ²	117.4	128.9	-11.5	3	9
HI					
1976 ¹	13.8	13.7	.1	10.6	77
1977	16.1	16.2	-.1	10.5	66
1978	20.9	19.0	1.9	12.4	55
1979	23.4	22.2	1.2	13.6	56
1980	25.6	25.7	-.1	13.5	53
1981	33.2	29.7	3.6	17.0	45

¹ Figures for 1976 represent actual experience.

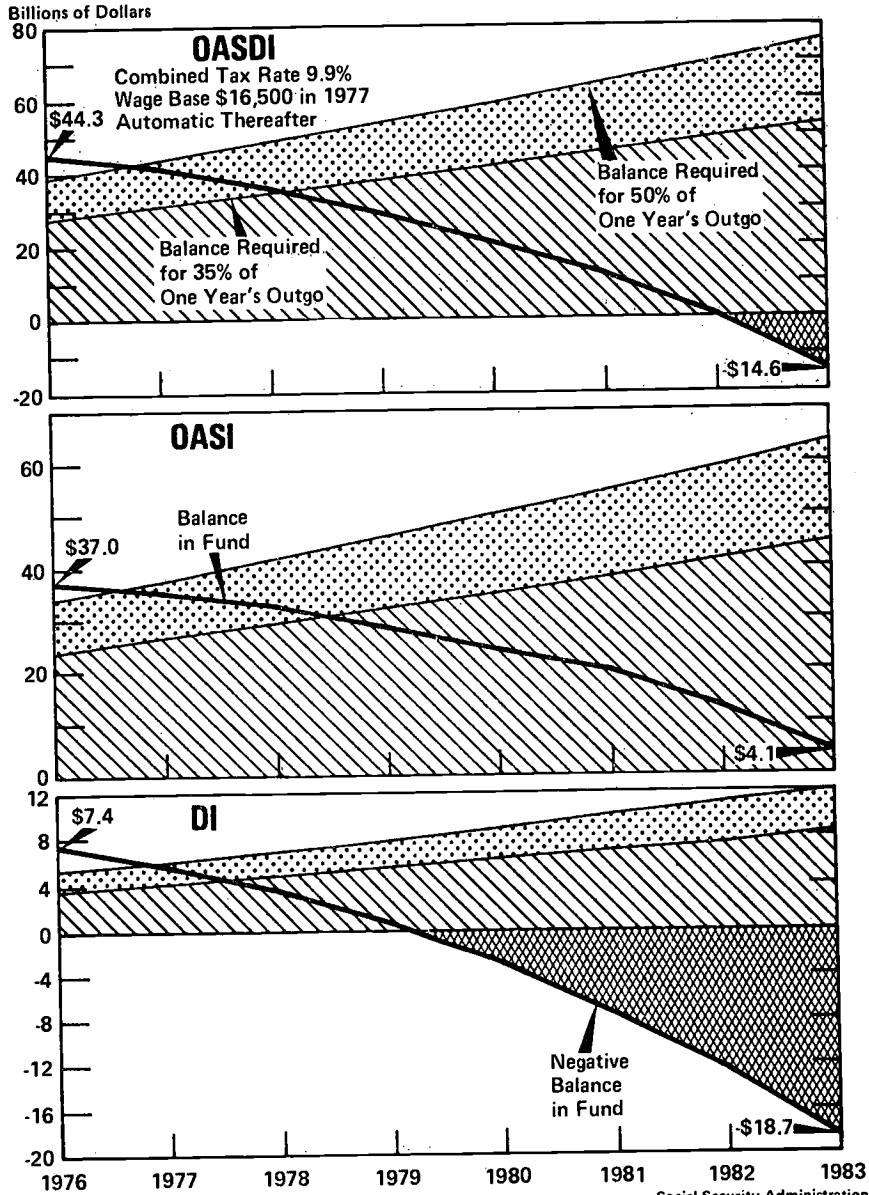
² Figures for 1979–81 are theoretical because it is estimated that the disability insurance trust fund will be exhausted in 1979.

³ Fund exhausted in 1979.

NOTE.—Totals do not necessarily equal the sum of rounded components. Estimates reflect minor adjustments that were made to the 1977 Trustees Report in recognition of actual experience.

It is clearly evident that additional revenue is needed to deal with the short-term deficits of the trust funds. The condition of the disability insurance trust fund is so serious that social security actuaries have indicated that due to the way taxes are collected, a cash-flow problem may develop late in 1978 and there may not be sufficient funds to pay disability benefits when they are due.

Prospects Under Present Law, Based on 1977 Trustees Report Assumptions



SHORT-TERM FINANCING OPTION—5-YEAR PERIOD

Reallocation of Funds

If legislation to increase OASDI revenues is not enacted within a year, the additional funds needed by the disability insurance program in 1978-79 would have to be reallocated from the OASI fund or the HI fund. Such a transfer would require an amendment of the law. Reallocations among the three trust funds have been legislated in the past. However, this measure should be considered as a last resort, inasmuch as it merely postpones, and for only a very short time, dealing directly with the basic financing problem.

Increased Revenues

There are basically three methods of increasing trust fund revenues:

- (1) Increasing the tax rate;
- (2) Increasing the taxable wage base; or
- (3) Using general revenue contributions.

The effect on the program and the taxpayers of increasing revenues depends, of course, on the amount of contributions to be raised and on the specific method or combination of methods used. The amount of revenues raised over the next 5 years depends on the goals to be achieved.

Ullman Proposal

Mr. Ullman has developed a proposal which would assure the fiscal integrity of the system and give Congress the opportunity to more fully and carefully consider basic changes in the system.¹ The Ullman proposal would combine (1) a modest tax rate and wage base adjustment, (2) reallocating moneys among the trust funds, and (3) the adoption of a standby guarantee of trust fund levels backed by loans from the general fund of the Treasury.

Tables 4 and 5 show estimated operations of the trust funds applying these changes and indicating that through 1982 the trust fund levels would remain above the point which would bring about a transfer of moneys from the general fund to the trust funds under the loan authority.

The following are the main features of the proposal:

(1) *Tax rate increase:* 0.2 percent each on employer and employee (and increase self-employment tax rate to 1½ times the employee rate).

(2) *Wage base increase:* \$500 above automatic increases each year for 1978 through 1982.

(3) *Reallocation:* Funds would be allocated from the HI trust fund to the OASI and DI trust funds in such a manner as to maintain the three trust funds at approximately equal levels as a percentage of outgo.

(4) *Standby general revenue loan guarantee:* Provide for the transfer of moneys from general revenues to the trust funds, on a loan basis and with automatic appropriations, if the balances in any of the trust funds at the end of a year falls below 25 percent of the outgo from the trust funds in that year. The determination could be made in February of each year and the transfer of moneys to the trust funds made on July 1 of the same year. The loan would be in an amount equal to the difference between the actual trust fund balance at the end of the prior

¹ Delaying decoupling for a year or two would have a relatively insignificant cost effect.

year and 30 percent of the outgo for the prior year. Any moneys advanced to the trust funds under this loan authority would be repaid whenever the year-end balance in the trust fund to which such a loan had been made reaches 40 percent or more of the outgo from the trust fund.

The following two tables show how the Ullman proposal would operate 1977-82 for the OASDI funds combined and for the hospital insurance funds. Such a mechanism could also be adopted using different tax rate and wage base increases. The Office of the Actuary has informed the subcommittee staff that proposals of this nature using (a) a tax rate increase of 0.15 percent each on employer and employee with an annual increment in the wage base of \$800, or (b) a tax rate increase of 0.1 percent each on employer and employee with an annual increment of \$1,000 in the wage base, would also operate through 1982 without the balance in the trust funds going below the 25-percent trigger point that would bring about a loan from the general fund of the Treasury.

TABLE 4.—*Estimated operations of the OASI and DI trust funds combined, under the Ullman proposal, calendar years 1977-82*

[In billions]

Calendar year	Income	Outgo	Net increase in funds	Assets at end of year	Assets at beginning of year as percent of outgo in that year	Assets at end of year as percent of outgo in that year
1977.....	\$82.1	\$87.6	-\$5.5	\$35.6	47	41
1978.....	95.6	97.6	-2.1	33.5	36	34
1979.....	106.9	107.3	-.4	33.1	31	31
1980.....	119.3	117.9	+1.4	34.5	28	29
1981.....	130.2	128.9	+1.3	35.8	27	28
1982.....	140.1	140.1	(¹)	35.8	26	26

¹ Less than \$50,000,000.

Source: Social Security Administration, Office of the Actuary.

TABLE 5.—*Estimated operations of the HI trust fund under the Ullman proposal, calendar years 1977-82*

[In billions]

Calendar year	Income	Outgo	Net increase in funds	Assets at end of year	Assets at beginning of year as percent of outgo in that year	Assets at end of year as percent of outgo in that year
1977.....	\$16.1	\$16.2	-\$0.1	\$10.5	66	65
1978.....	20.2	19.0	1.1	11.6	55	61
1979.....	22.7	22.2	.5	11.1	52	55
1980.....	23.8	25.7	-1.9	10.2	47	40
1981.....	31.4	29.7	1.7	11.9	34	40
1982.....	34.2	33.9	.3	12.2	35	36

Source: Social Security Administration, Office of the Actuary.

Carter administration proposal

The administration has recommended several changes which would provide sufficient income to enable the cash-benefits programs to meet their short-term financial obligations. Assuming that the trust funds should have year-end balances approximating 50 percent of the outgo anticipated for the following year, the administration estimates that the programs will require an additional \$91 billion (\$82 billion excluding interest) in the period 1978-82.

The following are the main features of the proposal:

- (1) Eliminate the ceiling on the employer tax in three steps: raising it in 1979 to the first \$23,400 of an individual's wages; in 1980 to the first \$37,500; and in 1981, the employer's total payroll would be taxed.
- (2) Shift tax revenues from the hospital to the cash program.
- (3) Increase the ceiling on employee tax by \$600 over present law in 1979, 1981, 1983, and 1985.
- (4) Increase the self-employment tax rate to 1½ times the employee rate.
- (5) Provide a "countercyclical" financing mechanism which would compensate the social security programs for the tax income which was not received because the unemployment rate exceeded 6 percent over the last few years.
- (6) Add a dependency requirement for spouses and widows' and widowers' benefits.

The changes recommended by this proposal would (1) reduce the amount needed by \$26 billion and (2) provide \$65 billion in additional income.

The additional income would come from:

	<i>Billions</i>
Additional employer taxes ¹	\$31
Additional employee taxes.....	3
Diversion of hospital insurance taxes.....	7
Increase in self-employment tax rate.....	1
Appropriation from general revenues ¹	14
Additional interest.....	9
Total.....	65

¹ Includes new revenues initially going to hospital insurance (HI) fund but reallocated to cash benefit funds through transfers of the HI tax rate.

The reduction would come from:

	<i>Billions</i>
Reducing the ratio of trust fund assets to expenditures from 50 percent to 35 percent.....	\$24
Adding a dependency requirement for spouses benefits.....	2
Total.....	26

Note: These figures assume enactment of the administration's decoupling proposal.

Other Short-Term Financing Alternatives

In order to raise social security revenues, the tax rates or the wage base or both can be raised as has been the traditional method in the past. Tax rate increases would spread the additional tax burden over the entire covered worker population and would represent the least change in the tax and benefit structure. Unlike a base increase, it has no effect on future benefit expenditures and, unlike general revenues, it would not depart from the dedicated tax arrangements.

On the other hand, tax rate increases are criticized on the grounds that lower income workers cannot afford to pay additional social security taxes; they add to the inherent regressivity of the social security tax structure as well as decreasing the progressivity of the overall Federal tax structure. (This regressive tax is, of course, counterbalanced by the progressive social security benefit structure; for example, low-paid workers get benefits that represent a higher proportion of their earnings, as compared with higher-paid workers.)

Increasing the earnings base over and above the automatic increases under present law would make the social security tax more progressive and could raise the needed additional income without an increase in taxes for low-income workers. However, the entire burden of the increase would fall on the small percentage of workers (about 15 percent) who earn above their current earnings base and on their employers. Another consideration, of course, is that a base increase would increase benefit expenditures over the longer run, since the higher earnings that would be taxable would also be counted in figuring future benefit amounts. Any major increase in the base results in a higher long-term deficit under the present "coupled" system. Under a "decoupled" system, a base increase would always decrease the deficit.

A combination of a rate and base increase has both the advantages and disadvantages noted above but in a modified form, and could be said to be a compromise approach.

Table 6 shows additional revenues to the OASDI and HI trust funds resulting from selected increases in the taxable wage base without any changes in the tax rate. Table 7 shows increased revenues resulting from combinations of tax rate and wage base increases.

Each 0.05 percent rate increase for employees and employers, each, would produce about \$0.8 billion in 1978 and \$5.4 billion cumulatively through 1982. On the other hand, increasing the base would produce varying amounts of additional income ranging from \$356 million on a \$300 increase in the base in 1978 to \$7 billion from an increase in the base to \$30,000 in 1978.

The following example illustrates how the two tables can be used to calculate additional taxes above present law, given any conventional rate and/or base increase in 1978. If the base were increased to \$21,000 in 1978, the estimated additional OASDI contributions in 1978 would be \$3,184 million as shown in table 6. If, in addition, there were a 0.15 percent increase in the OASDI rate for employees and employers, each, and an increase in the self-employed rate to 1½ times the employee rate, the estimated additional OASDI contributions in 1978, as shown in table 7, would be \$51 million (for increasing the self-employed rate from 7.0 percent to 7.4 percent) plus \$2,562 million (3 times \$854 million for increasing the rate for employees and employers, each, from 4.95 percent to 5.10 percent and increasing the rate for self-employed persons from 7.4 percent to 7.7 percent), or a total of \$2,613 million for the rate increase only. The estimated total increase for both base and rate increases would be \$5,797 million in 1978.

TABLE 6.—Additional OASDI and HI contributions over present law at selected contribution and benefit bases and at present law tax rates, collected in calendar years 1978-82

[Contributions in millions]

Contribution and benefit base					Additional OASDI contributions					Total
1978	1979	1980	1981	1982	1978	1979	1980	1981	1982	
¹ \$17,700	¹ \$18,900	¹ \$20,400	¹ \$21,900	¹ \$23,400						
18,000	19,200	20,700	22,200	23,700	\$356	\$469	\$482	\$482	\$476	\$2,265
18,500	19,800	21,300	23,100	24,600	919	1,331	1,394	1,743	1,814	7,201
19,000	20,400	21,900	23,700	25,500	1,440	2,127	2,242	2,572	2,950	11,331
19,500	21,000	22,800	24,600	26,400	1,927	2,874	3,328	3,714	4,053	15,896
20,000	21,300	23,100	24,900	26,700	2,380	3,279	3,693	4,067	4,041	17,820
20,500	21,900	23,700	25,500	27,300	2,796	3,936	4,376	4,742	5,063	20,913
21,000	22,500	24,300	26,100	27,900	3,184	4,546	5,011	5,376	5,678	23,795
21,500	23,100	24,900	26,700	28,500	3,545	5,108	5,603	5,961	6,258	26,475
22,000	23,400	25,200	27,300	29,100	3,882	5,421	5,885	6,452	6,806	28,446
22,500	24,000	25,800	27,900	30,000	4,193	5,921	6,420	6,960	7,507	31,010
23,000	24,600	26,700	28,800	30,900	4,485	6,380	7,095	7,687	8,198	33,845
23,500	25,200	27,300	29,400	31,500	4,755	6,810	7,545	8,126	8,625	35,861
24,000	25,800	27,900	30,000	32,100	5,007	7,207	7,963	8,540	9,026	37,743
25,000	26,700	28,800	30,900	33,000	5,457	7,789	8,541	9,108	9,590	40,485
26,000	27,900	30,000	32,400	34,800	5,855	8,435	9,228	9,918	10,542	43,978
27,000	28,800	31,200	33,600	36,000	6,026	8,895	9,801	10,514	11,121	46,537
28,000	30,000	32,400	34,800	37,200	6,515	9,404	10,342	11,053	11,645	48,959
29,000	30,900	33,300	36,000	38,400	6,792	9,774	10,712	11,509	12,122	50,909
30,000	32,100	34,800	37,500	40,200	7,042	10,189	11,241	12,053	12,741	53,266

	Additional HI contributions						Additional OASDI and HI contributions combined						
	1978 base	1978	1979	1980	1981	1982	Total	1978	1979	1980	1981	1982	Total
\$17,700							\$540	\$435	\$573	\$587	\$607	\$603	\$2,805
\$18,000	\$79	\$104	\$105	\$125	\$127	\$127	\$540	\$435	\$573	\$587	\$607	\$603	\$2,805
\$18,500	205	293	305	458	484	484	1,745	1,124	1,624	1,699	2,201	2,298	8,946
\$19,000	317	466	488	668	788	788	2,727	1,757	2,593	2,730	3,240	3,738	14,058
\$19,500	425	624	725	962	1,082	1,082	3,818	2,352	3,498	4,053	4,676	5,135	19,714
\$20,000	525	714	804	1,053	1,176	1,176	4,272	2,905	3,993	4,497	5,120	5,577	22,092
\$20,500	617	858	951	1,226	1,347	1,347	4,999	3,413	4,794	5,327	5,968	6,410	25,912
\$21,000	701	988	1,089	1,389	1,514	1,514	5,681	3,885	5,534	6,100	6,767	7,192	29,476
\$21,500	784	1,111	1,220	1,538	1,668	1,668	6,321	4,329	6,219	6,823	7,499	7,926	32,796
\$22,000	858	1,181	1,278	1,667	1,811	1,811	6,795	4,740	6,602	7,163	8,119	8,617	35,241
\$22,500	925	1,289	1,395	1,800	1,999	1,999	7,408	5,118	7,210	7,815	8,769	9,506	38,418
\$23,000	989	1,388	1,541	1,980	2,183	2,183	8,081	5,474	7,768	8,636	9,667	10,381	41,926
\$23,500	1,048	1,481	1,637	2,095	2,298	2,298	8,559	5,803	8,291	9,182	10,221	10,923	44,420
\$24,000	1,104	1,567	1,729	2,199	2,401	2,401	9,000	6,111	8,774	9,692	10,739	11,427	46,743
\$24,500	1,163	1,653	1,825	2,303	2,505	2,505	9,482	6,422	9,182	10,094	11,149	12,140	50,127
\$25,000	1,205	1,693	1,853	2,341	2,550	2,550	9,642	6,662	9,482	10,394	11,449	12,140	50,127
\$25,500	1,247	1,735	1,895	2,383	2,592	2,592	9,802	6,822	9,642	10,554	11,611	12,302	51,453
\$26,000	1,291	1,830	2,003	2,549	2,802	2,802	10,475	7,146	10,265	11,231	12,467	13,344	54,453
\$27,000	1,371	1,928	2,126	2,697	2,953	2,953	11,075	7,577	10,823	11,927	13,211	14,074	57,612
\$28,000	1,438	2,038	2,239	2,833	3,091	3,091	11,639	7,953	11,442	12,581	13,886	14,736	60,598
\$29,000	1,498	2,118	2,317	2,947	3,216	3,216	12,096	8,290	11,892	13,029	14,456	15,338	63,005
\$30,000	1,553	2,206	2,431	3,083	3,377	3,377	12,650	8,595	12,395	13,672	15,136	16,118	65,916

¹ Estimated contribution and benefit base under present law.

Source: Social Security Administration, Office of the Actuary.

TABLE 7.—Additional OASDI contributions at selected contribution and benefit bases in 1978 resulting from (1) an increase in the contribution rate for self-employed persons to $1\frac{1}{2}$ times the employee rate under present law (i.e., from 7 to 7.4 percent), and (2) an increase in the contribution rate for employees and employers each of 0.05 percent with a resulting 0.1 percent¹ increase in the self-employed rate, calendar years 1978–82

[In millions]

1978 base	1978	1979	1980	1981	1982	Total
Additional contributions resulting from increasing the self-employed rate from 7.0 to 7.4 percent						
\$17,700.....	\$48	\$242	\$265	\$289	\$312	\$1, 156
\$18,000.....	48	244	267	291	313	1, 163
\$21,000.....	51	261	286	312	336	1, 246
\$24,000.....	54	275	301	329	354	1, 313
\$27,000.....	56	286	313	342	368	1, 365
\$30,000.....	58	296	324	354	381	1, 413
Additional contributions resulting from a 0.05 percent increase in the contribution rate for employees and employers, each ²						
\$17,700.....	\$821	\$1, 001	\$1, 103	\$1, 198	\$1, 287	\$5, 410
\$18,000.....	825	1, 006	1, 108	1, 203	1, 292	5, 434
\$21,000.....	854	1, 048	1, 155	1, 254	1, 346	5, 657
\$24,000.....	872	1, 076	1, 186	1, 287	1, 381	5, 802
\$27,000.....	885	1, 094	1, 206	1, 308	1, 404	5, 897
\$30,000.....	893	1, 108	1, 221	1, 325	1, 421	5, 968
Total additional contributions from rate increase on employer-employee and self-employed						
\$17,700.....	\$869	\$1, 243	\$1, 368	\$1, 487	\$1, 599	\$6, 566
\$18,000.....	873	1, 250	1, 375	1, 494	1, 605	6, 597
\$21,000.....	905	1, 309	1, 441	1, 566	1, 682	6, 903
\$24,000.....	926	1, 351	1, 487	1, 616	1, 735	7, 115
\$27,000.....	941	1, 380	1, 519	1, 650	1, 772	7, 262
\$30,000.....	951	1, 404	1, 545	1, 679	1, 802	7, 381

¹ The OASDI rate for self-employed persons is rounded to the nearest tenth of 1 percent.

² Also includes the effect of increasing the rate for self-employed persons by 0.1 percent.

Source: Social Security Administration, Office of the Actuary.

General Revenues

Alternatively, some or all of the necessary additional income could be obtained from general revenues. The use of general revenues could be approached in a number of different ways. Mr. Burke has suggested a one-third general revenue contribution. Other suggestions have been made to finance various "welfare" aspects of social security out of general revenue. The Carter administration has recommended the temporary limited use of general revenues (until 1983) to make up for the loss of income due to unemployment in excess of 6 percent. The administration states that this proposal would be referred to the next statutory Advisory Council on Social Security due to be appointed this year to determine whether it should be made a permanent feature of the law. Another way would be a one-time grant or loan of a specific amount of general revenues to carry the program through the short range, for example, along the lines of the Ullman proposal.

ALTERNATIVE FINANCING PROPOSALS—10 YEARS OR MORE

There are any number of alternative financing arrangements to choose from to finance the program for the next 10 years. A comparison of several of these options with the administration plan is shown below. The effect of these options on the OASDI trust funds assumes (1) the administration's decoupling and dependency test proposals, and (2) a self-employed tax rate equal to three-quarters the combined employee-employer rate. (The administration's decoupling proposal is the most conservative one to use for illustrative purposes in the sense that outgo would be higher than under the other decoupling options that are described later.)

Brief Description of Alternative Methods Shown in Table 8 for Increasing Revenues to the OASDI Trust Funds for the Short Term (10 Years)

1. *Administration proposal.*—Increase taxable wage base for employers only to \$23,400 and to \$37,500 in 1979 and 1980, respectively, and eliminate it in 1981; increase the taxable wage base for employees by \$600 over automatic increases in 1979, 1981, 1983, and 1985; increase OASDI tax rate to 5.05 percent in 1978, 5.15 percent in 1981 (by reallocating part of HI tax rate increases scheduled in present law), and to 5.40 percent in 1985.

2. *Base and rate increase.*—Increase taxable wage base to \$23,100 in 1978 (rather than \$17,700 under present law) with automatic increases thereafter; increase OASDI tax rate to 5.10 percent in 1978, 5.25 percent in 1981, and 5.35 percent in 1985, each on employer and employee.

3. *Rate increase only.*—Increase tax rate on employer and employee to 5.40 percent in 1978, 5.55 percent in 1981, and 5.70 percent in 1985; and retain taxable wage base under present law.

4. *Base increase only.*—Increase the taxable wage base to \$39,000 in 1978 with automatic increases thereafter; retain the tax rate under present law.

5. *Chamber of Commerce proposal.*—Increase tax rate on employer and employee to 5.25 percent in 1978; retain taxable wage base under present law.

6. *Senate Finance Committee staff proposal.*—Eliminate the taxable wage base for employers in 1978; increase taxable wage base for employees by \$600 over automatic increases in 1979, 1981, 1983, and 1985 (same as administration proposal); increase OASDI tax rate to 5.00 percent in 1978, 5.35 percent in 1981, and 5.30 percent in 1982. (This includes a 0.25 percent increase in the combined OASDHI tax rate beginning in 1981 and a reallocation of funds from the HI trust fund to the OASDI and DI trust funds in all of the years affected.)

TABLE 8.—Comparison of the operations of the OASI and DI trust funds combined, under present law, the administration's proposal, and 5 alternative proposals, calendar years 1976-87

Calendar year	(1) Present law	(2) Administration proposal	(3) Base and rate	(4) Rate only	(5) Base only	(6) Chamber of Commerce proposal	(7) Senate Finance Committee staff proposal
Contribution and benefit base ¹							
1976-----	\$15,300	\$15,300	\$15,300	\$15,300	\$15,300	\$15,300	\$15,300
1977-----	16,500	16,500	16,500	16,500	16,500	16,500	16,500
1978-----	17,700	17,700	23,100	17,700	39,000	17,700	17,700
1979-----	18,900	19,500	24,600	18,900	41,700	18,900	19,500
1980-----	20,400	21,000	26,700	20,400	45,000	20,400	21,000
1981-----	21,900	23,100	28,800	21,900	48,600	21,900	23,100
1982-----	23,400	24,600	30,900	23,400	51,900	23,400	24,600
1983-----	24,900	26,700	33,000	24,900	55,200	24,900	26,700
1984-----	26,400	28,200	35,100	26,400	58,500	26,400	28,200
1985-----	27,900	30,300	37,200	27,900	61,800	27,900	30,300
1986-----	29,400	32,100	39,300	29,400	65,400	29,400	32,100
1987-----	31,200	33,900	41,700	31,200	69,300	31,200	33,900
Contribution rates for employees and employers, each (percent)							
1976-77-----	4.95	4.95	4.95	4.95	4.95	4.95	4.95
1978-80-----	4.95	5.05	5.10	5.40	4.95	5.25	5.00
1981-----	4.95	5.15	5.25	5.55	4.95	5.25	5.35
1982-84-----	4.95	5.15	5.25	5.55	4.95	5.25	5.30
1985-87-----	4.95	5.40	5.35	5.70	4.95	5.25	5.30
Net increase in funds (in billions)							
1976-----	-\$3.2	-\$3.2	-\$3.2	-\$3.2	-\$3.2	-\$3.2	-\$3.2
1977-----	-5.5	-5.5	-5.5	-5.5	-5.5	-5.5	-5.5
1978-----	-7.0	.5	.5	.8	1.9	-1.7	-.3
1979-----	-7.8	1.5	3.2	2.6	6.2	-.7	1.9
1980-----	-9.0	3.9	4.1	3.3	7.7	-.5	2.7
1981-----	-11.5	6.2	7.3	6.2	7.6	-1.5	10.9
1982-----	-14.9	5.8	6.8	5.8	6.4	-3.4	10.5
1983-----	-19.2	4.8	5.7	4.6	4.8	-5.8	10.0

1984	-24.4	2.9	3.8	2.7	2.3	-8.9	8.8
1985	-30.8	8.3	4.2	4.4	-9	-13.0	7.0
1986	-38.1	7.5	2.0	2.4	-4.6	-17.6	5.0
1987	-46.1	5.3	-9	-2	-8.8	-22.5	2.4

Assets of beginning of year (in billions)

1976	\$44.3	\$44.3	\$44.3	\$44.3	\$44.3	\$44.3	\$44.3
1977	41.1	41.1	41.1	41.1	41.1	41.1	41.1
1978	35.6	35.6	35.6	35.6	35.6	35.6	35.6
1979	28.6	36.1	36.1	36.4	37.5	33.9	35.4
1980	20.8	37.6	39.3	39.0	43.7	33.2	37.2
1981	11.8	41.5	43.4	42.3	51.4	32.7	39.9
1982	.3	47.6	50.6	48.5	59.0	31.2	50.7
1983	-14.6	53.5	57.5	54.3	65.4	27.8	61.2
1984	-33.8	58.3	63.1	58.9	70.2	22.0	71.2
1985	-58.2	61.2	66.9	61.6	72.5	13.2	80.0
1986	-89.0	69.5	71.2	66.0	71.6	.1	87.0
1987	-127.2	77.0	73.1	68.3	67.1	-17.5	92.1

Assets at beginning of year as a percentage of outgo during the year (reserve ratio)

1976	57	57	57	57	57	57	57
1977	47	47	47	47	47	47	47
1978	36	37	37	37	37	37	37
1979	27	34	34	34	35	32	33
1980	18	32	33	33	37	28	32
1981	9	32	34	33	40	26	31
1982	(¹)	34	36	35	42	22	37
1983	(¹)	36	38	36	43	18	41
1984	(¹)	36	39	36	43	14	44
1985	(¹)	35	38	35	41	7	45
1986	(¹)	36	37	35	37	(²)	46
1987	(¹)	37	35	33	32	(²)	45

¹ After 1977, contribution and benefit bases for employers are different from those shown in the table for the administration's proposal and the Senate Finance Committee proposal. For the administration's proposal, the bases are \$23,400 and \$37,500 in 1979 and 1980 respectively. The base is removed beginning in 1981. For the Senate Finance Committee proposal, the base is removed beginning in 1978.

² Less than 0.5 percent.

³ Combined funds are exhausted in 1982 under present law and in 1986 under the Chamber of Commerce proposal.

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Long-Term Financing of the
Social Security Trust Funds
(Decoupling)



SEPTEMBER 6, 1977

NOTE.—This document has been printed for information purposes only.
It has not been considered or approved by the subcommittee.

Prepared by the staff of the Subcommittee on Social Security

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1977

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Long-Term Financing of the Social Security Trust Funds

LONG-TERM FINANCING—DECOUPLING

Amount of Deficit

Over the medium range (through year 2001), income to OASDI will be equal to 9.9 percent of payroll while the estimated outgo is 12.24 percent, leaving a deficit of about 2.34 percent. The estimated deficit is expected to increase to 7.67 percent for the period 2002–2026 and to 14.57 percent for the last 25 years of the 75-year valuation period. (See table 1.)

Over the 75-year period covered by the long-term actuarial cost estimates, the OASDI taxes provided under present law are estimated to provide income averaging 10.99 percent of taxable payroll while the benefits authorized are estimated to have an average cost of 19.19 percent of taxable payroll. The deficit is 8.20 percent of taxable payroll. The estimated annual deficit is expected to rise from about 1 percent of taxable payroll currently to over 15 percent at the end of the valuation period. As will be shown later, the various decoupling proposals would reduce the deficit in varying degrees.

The increases in program costs over the three 25-year periods are caused largely by (a) revisions in the long-range economic assumptions under which benefit levels are expected to rise faster and real wages slower than had been assumed earlier (the present benefit formula is extremely sensitive to both wage and price changes), (b) changing demographic patterns which sharply increase the ratio of aged to working age populations (as a result of low birth rates now and in the future in conjunction with the retirement of people born during the high-birth-rate period of the late 1940's and the 1950's) (see chart I), and (c) an expected continued rise in disability rates. (See table 2.)

Replacement Rates

A major factor contributing to the long-range deficit is the projected rise in social security benefit replacement rates—initial benefit levels as a percent of prior earnings—under current economic assumptions. Thus, a central question in developing a revised social security benefit structure is whether replacement rates should remain constant or decline over time. In addition, if replacement rates are to remain constant, consideration should be given to the level at which they should be fixed.

Current long-range projections show that benefit levels will rise by about 50 percent more than wages over the next 75 years, with most of this increase occurring after the 1990's. Under current economic assumptions, replacement rates are expected to rise significantly, particularly after the early 1990's. (See chart II.) Replacement rates can fluctuate widely in the future, either up or down, depending on future changes in wages and prices. (See chart III.)

It can be argued that Congress intended that replacement rates should remain constant at the levels established by the 1972 amendments which provided for automatically increasing benefits as the cost of living rises. It can also be argued that Congress did not endorse constant replacement rates at that time but merely wished to keep benefits up with increases in the cost of living. At that time it was expected, on the basis of the economic assumptions made then, that future replacement rates would remain fairly constant relative to wage levels. The rise in replacement rates under current assumptions causes roughly one-half of the long-term deficit.

The projected increase in replacement rates is due to the fact that benefits for people who will retire in the future will be affected by the changes in both wages and prices that occur during their working years. Their benefits will be affected by the automatic cost-of-living benefit increases, since such increases apply to future benefits for current workers as well as the benefits paid to current beneficiaries. A current worker's future benefits will also increase because his earnings are expected to increase as economic growth occurs.

Social security experts agree that the benefit structure should be "decoupled," that is, that current workers' future benefits be separated from those of beneficiaries currently on the rolls and that the automatic cost-of-living increases should apply only to those retirees on the rolls. Decoupling requires a new benefit formula for future beneficiaries that would produce replacement rates and costs that are much more predictable than under present law. Under all of the various decoupling proposals, the automatic CPI benefit increases after retirement would continue.

TABLE 1.—Estimated expenditures under present law of old-age, survivors, and disability insurance system as percent of taxable payroll for selected years, 1977-2055

(In percent)

Calendar year	Expenditures as percent of taxable payroll ¹			Tax rate in law	Difference
	Old-age and survivors insurance	Disability insurance	Total		
1977	9.39	1.50	10.89	9.90	-0.99
1978	9.38	1.53	10.91	9.90	-1.01
1979	9.30	1.55	10.85	9.90	-.95
1980	9.21	1.59	10.80	9.90	-.90
1981	9.23	1.65	10.88	9.90	-.98
1982	9.31	1.71	11.01	9.90	-1.11
1983	9.40	1.77	11.17	9.90	-1.27
1984	9.51	1.84	11.36	9.90	-1.46
1985	9.64	1.92	11.56	9.90	-1.66
1986	9.76	1.99	11.76	9.90	-1.86
1987	9.86	2.06	11.92	9.90	-2.02
1988	9.95	2.13	12.08	9.99	-2.18
1989	10.03	2.20	12.23	9.90	-2.33
1990	10.12	2.27	12.39	9.90	-2.49
1991	10.20	2.34	12.54	9.90	-2.64
1992	10.28	2.41	12.68	9.90	-2.78
1993	10.35	2.48	12.83	9.90	-2.93
1994	10.42	2.56	12.98	9.90	-3.08
1995	10.50	2.64	13.14	9.90	-3.24
1996	10.54	2.73	13.27	9.90	-3.37
1997	10.60	2.83	13.43	9.90	-3.53
1998	10.66	2.92	13.58	9.90	-3.68
1999	10.72	3.02	13.74	9.90	-3.84
2000	10.79	3.12	13.91	9.90	-4.01
2001	10.89	3.23	14.12	9.90	-4.22
2005	11.30	3.66	14.96	9.90	-5.06
2010	12.46	4.11	16.57	9.90	-6.67
2015	14.47	4.42	18.89	11.90	-6.99
2020	17.05	4.59	21.64	11.90	-9.74
2025	19.75	4.55	24.30	11.90	-12.40
2030	21.57	4.45	26.02	11.90	-14.12
2035	22.26	4.43	26.69	11.90	-14.79
2040	22.12	4.55	26.67	11.90	-14.77
2045	21.83	4.76	26.59	11.90	-14.69
2050	22.02	4.91	26.93	11.90	-15.03
2055	22.53	4.98	27.51	11.90	-15.61
25-yr averages:					
1977-2001	10.00	2.24	12.24	9.90	-2.34
2002-26	14.65	4.20	18.85	11.18	-7.67
2027-51	21.86	4.61	26.47	11.90	-14.57
75-yr average, 1977-2051	15.51	3.68	19.19	10.99	-8.20

¹ Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which incorporates ultimate annual increases of 5/4 percent in average wages in covered employment and 4 percent in CPI, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.

TABLE 2.—*Historical behavior and projections of replacement rates under present program*

- Initial average benefit same as in present law
- Workers earning records not indexed
- Benefit formula bend points not indexed
- Benefit formula factors CPI indexed (*ad hoc* increases prior to 1975)

[In percent]

	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASD-expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
Past years:						
1955.....	\$2, 141	31	45	31	3.3	1.3
1960.....	2, 493	33	45	30	5.9	2.3
1965.....	2, 665	32	43	33	8.0	2.8
1970.....	2, 987	34	46	29	8.1	3.4
1975.....	3, 619	43	56	30	10.7	4.6
Future years:						
1979.....	4, 444	45	58	35	10.9	4.5
1985.....	5, 354	48	60	35	11.6	4.8
1990.....	5, 871	49	63	36	12.4	5.1
1995.....	6, 476	49	66	37	13.1	5.4
2000.....	7, 406	52	75	39	13.9	5.7
2010.....	9, 489	56	84	42	16.6	6.8
2020.....	11, 916	60	91	44	21.6	8.9
2030.....	14, 765	63	96	46	26.0	10.7
2040.....	18, 122	65	101	47	26.7	11.0
2050.....	22, 088	67	106	48	26.9	11.1

	Percent
Average medium-range cost (1977-2001).....	12.2
Average medium-range revenue.....	9.9
Average medium-range deficit.....	-2.3
Average long-range cost (1977-2051).....	19.2
Average long-range revenue.....	11.0
Average long-range deficit.....	-8.2

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

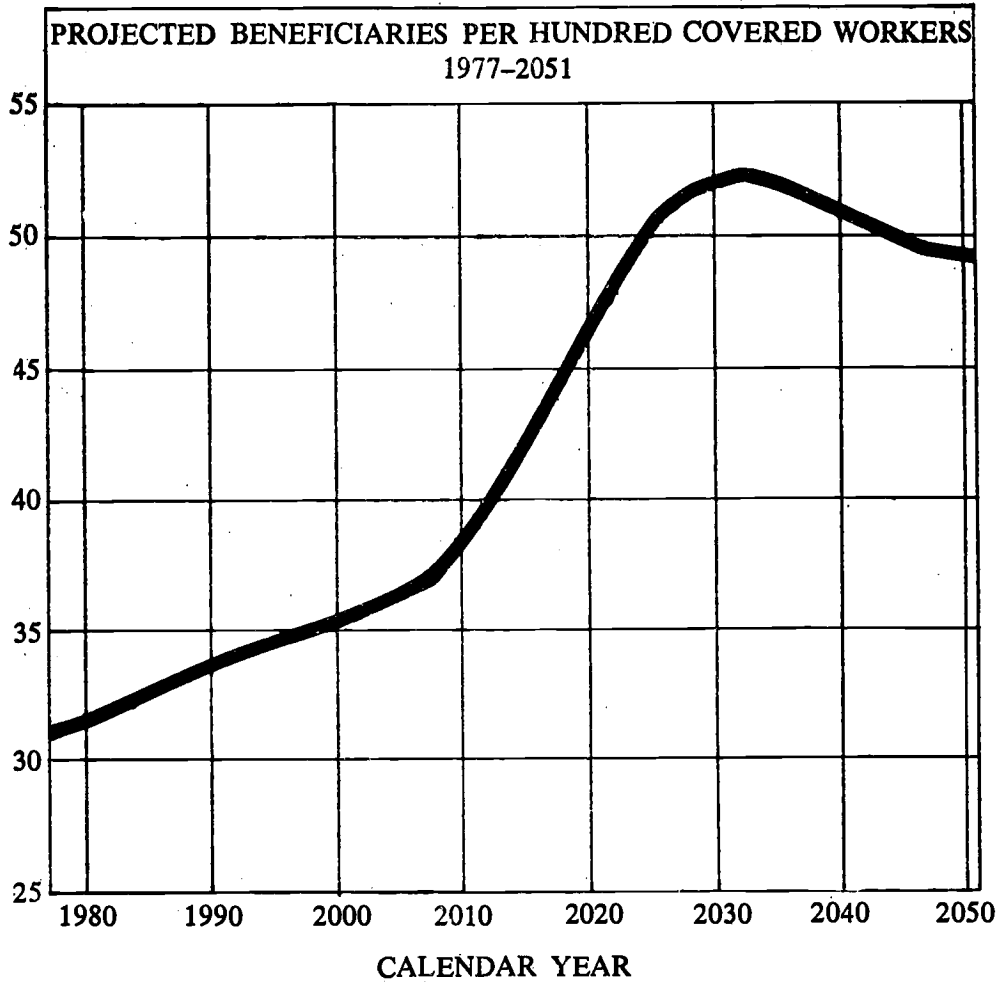
³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

NOTE.—The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative 11) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

CHART I

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM



PROJECTED POPULATION, BENEFICIARIES, AND WORKERS IN COVERED EMPLOYMENT

Year	Projected Number (in millions)			Beneficiaries Per Hundred Covered Workers
	Total Population	OASDI Beneficiaries	Covered Workers	
1977	225.9	33.50	107.0	31.3
2000	264.6	47.76	135.4	35.3
2025	295.2	71.88	143.0	50.3
2050	311.5	74.48	150.9	49.4

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

CHART II

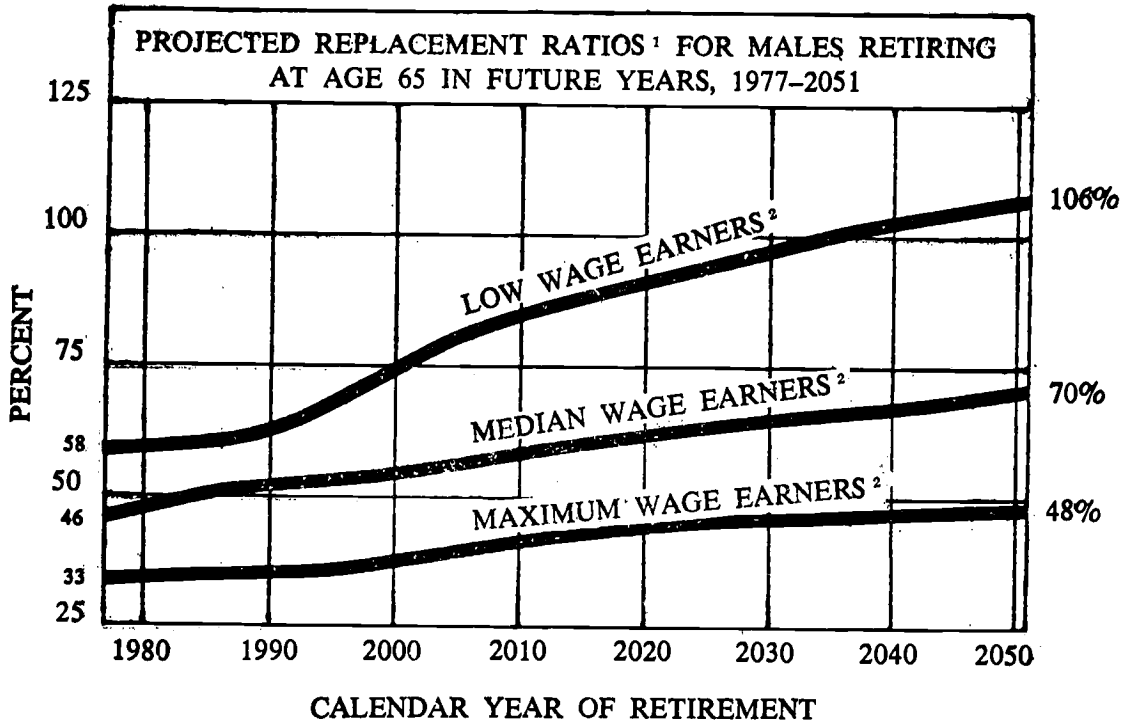
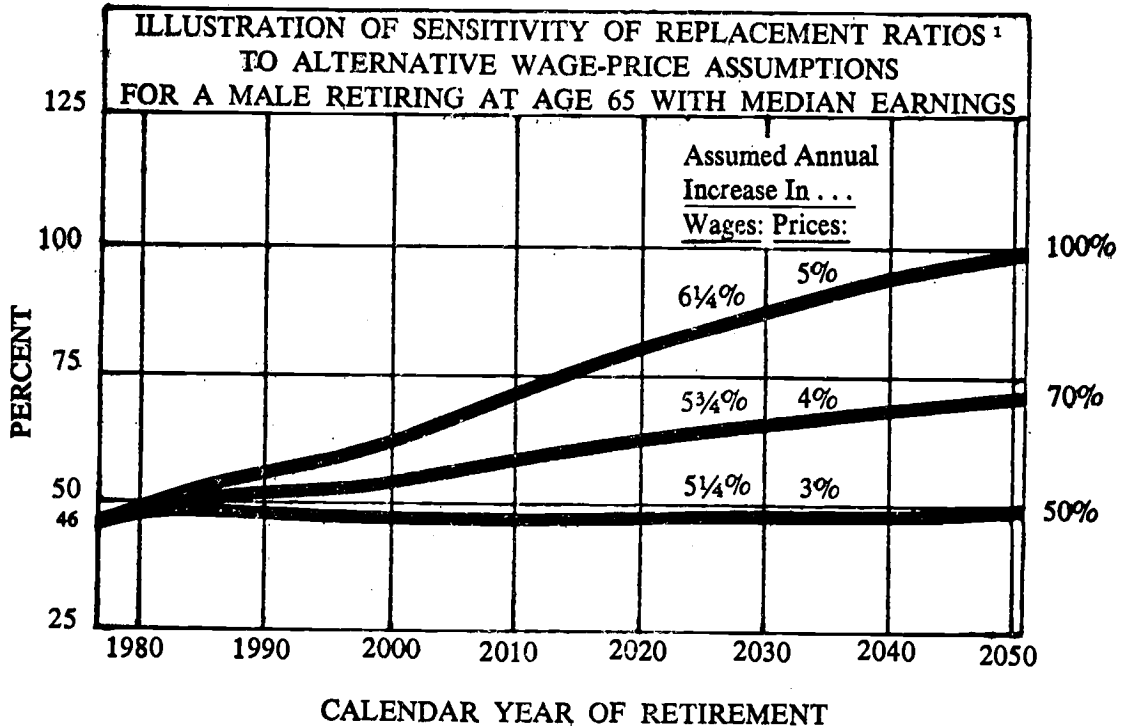


CHART III



¹ The Replacement Ratio is the ratio of the first year's benefits to the worker's earnings in his last year before retirement.

² In 1976, "low" earnings were \$4,600; median earnings were \$8,858 and "maximum" earnings were \$15,300.

DECOUPLING OPTIONS

Three general approaches to decoupling have been proposed which would achieve different goals.

First—the *Administration approach*—is simply designed to correct the aberration of rising replacement rates that will occur under present law under virtually any reasonable assumptions as to future wage and price increases. This approach cuts the long-term costs of the program only to the extent that the flaw in the present benefit formula is expected to produce an unintended rise in replacement rates. It does nothing to solve the long-term cost implications associated with a shift in the benefit/worker ratio.

Second—the *Myers approach*—would prevent replacement rates from rising and also reduce the rates to the level that existed prior to the benefit increases in 1972. In effect, this approach makes the judgment that the increase in replacement rates that began in 1972 is inappropriate.

Third—the *Hsiao panel and Senate Finance Committee staff approach*—attempts to deal with virtually all of the long-term deficit by providing for declining replacement rates in the future. The virtual elimination of the long-term deficit would be achieved by mixing the solution to the long-term financing problem with the need to correct a technical problem in the law.

Maintain Current Replacement Rates

This decoupling approach was recommended by the 1975 Advisory Council on Social Security and both the Ford and Carter Administrations. It is designed to make the system operate as it would have under the economic assumptions made when the automatic provisions were enacted in 1972; although the issue was little discussed at that time, it was assumed that replacement rates would have remained fairly constant in the future.

Under the Administration proposal (H.R. 8218), the benefit amounts payable to workers who retire in the future would generally reflect the increase in the standard of living that occurs during their working years (between age 20 and 64). Thus, while replacement rates would be stabilized, benefit amounts for each new group of retirees would rise in proportion to the general increase in wage levels.

A major feature of H.R. 8218 is that the worker's earnings would be indexed to reflect the change in general wage levels that has occurred during his working lifetime. These indexed earnings would be averaged (average indexed monthly earnings) and a three-step, weighted benefit formula¹ (designed to approximate benefit levels and replacement rates prevailing under present law when the new system is implemented) would be applied to his average indexed earnings to produce the worker's benefit amount. For those becoming entitled to benefits in the future, the benefit factors (percentage amounts) would not be indexed, but the bend points (dollar amounts) in the formula would be adjusted automatically as average wages increase.

By providing for the indexing of earnings and the benefit formula to the increase in general wage levels, benefits would be based on the worker's relative earnings position averaged over his working lifetime. As a result, all workers with the same relative earnings position would be treated the same regardless of when they become entitled to benefits. Thus, while the dollar amounts of benefits of, say, workers with average earnings retiring 20 or 30 years apart would be substantially different, their replacement rates would be the same.

¹The formula follows:

94 percent of the first \$180 of AIME, plus
34 percent of AIME over \$180 through AIME of \$1,075, plus
16 percent of AIME above \$1,075.

TABLE 3.—*Current replacement rates through wage indexing*

(Proposal recommended by Carter Administration)

- Initial average benefit close to present law in 1979
- Workers earnings records wage indexed
- Benefit formula bend points wage indexed
- Benefit formula factors not indexed

[In percent]

Year:	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1979	\$4,444	46	58	35	10.9	4.5
1985	5,027	45	58	34	11.5	4.7
1990	5,460	45	58	34	12.0	4.9
1995	5,939	45	58	35	12.4	5.1
2000	6,455	45	58	35	12.7	5.2
2010	7,626	45	58	36	14.0	5.7
2020	9,012	45	58	36	17.0	7.0
2030	10,648	45	58	36	19.3	7.9
2040	12,583	45	58	36	18.8	7.7
2050	14,868	45	58	36	18.1	7.5

	<i>Percent</i>
Average medium-range cost (1977–2001)	11.8
Average medium-range revenue (present law)	9.9
Average medium-range deficit	–1.9
Average long-range cost (1977–2051)	15.3
Average long-range revenue (present law)	11.0
Average long-range deficit	–4.3

¹ Assumed to be 4 times the average 1st quarter covered earnings.² Assumed at \$4,600 in 1976 and following the trends of the average.³ Assumed at the maximum taxable under the program.⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.⁵ The present law benefit formula applies for all workers attaining age 62 before Jan. 1, 1979.

NOTE.—The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative 11) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady immediately prior to retirement. The values in this table refer only to the Administration wage-indexing proposal with the transitional provision and exclude the effect of all other benefit and financing modifications in the Administration proposal.

This decoupling option would have a significant impact on the long-range cost of the social security program. Under current economic and demographic assumptions, this approach would reduce the current long-range financial deficit of the social security cash benefits program by about half—from an average of 8.2 percent of payroll over the next 75 years to an average of about 4.3 percent of payroll.

Thus, that portion of the long-term deficit that can be attributed to the rising replacement rate aberration under present law would be eliminated. This approach, then, does not attempt to change the basic nature of the system. The remaining 4.3 percent deficit is largely due to the changing age composition resulting from the baby boom of the 1940's and 1950's combined with the lower fertility rate expected in the future, and the adverse experience in the disability program.

If the Administration's benefit and financing proposals are taken into account, there would be a surplus of 0.5 percent of taxable payroll over the medium range and the 75-year deficit would be reduced from 4.3 percent to 2.1 percent of taxable payroll. These proposals include four \$600 earnings base increases for employees, elimination of the base for employers (in three steps),

rescheduling the tax rate increase now scheduled for 2011 to 1990 and 1990 for employers and employees, reallocation of taxes from the HI program, increasing the self-employment tax rate to three-quarters the combined employee-employer rate, and a dependency test for spouses benefits.

If this alternative were adopted, the Congress would have to deal with all or part of the remaining deficit by providing additional increases in social security tax contributions, adding general revenue contributions, or changes in the social security benefit structure or eligibility requirements or combinations of these approaches.

Maintain Lower Replacement Rates

A variant—wage indexing at lower than prevailing benefit levels—which would result in constant but lower replacement rates and reduce the long-range deficit by more than one-half has been recommended by the Chamber of Commerce, the American Council of Life Insurance, and the National Association of Manufacturers. It was designed by the former Chief Actuary of the Social Security Administration, Robert J. Myers.

As under the Carter Administration proposal, all workers retiring in the future would share in the rise in real wages and in the standard of living that occurs during their working lifetime. The primary difference between the proposals is that replacement rates would be stabilized at a lower level, about 11 percent below existing law. (Both proposals would wage index the worker's earnings and the bend points in the benefit formula.)

TABLE 4.—*Replacement rates through wage indexing at reduced replacement rate level*

(Proposal recommended by Robert J. Myers)

- Initial average benefit close to 11 percent below present law in 1979
- Workers earnings records wage indexed
- Benefit formula bend points wage indexed
- Benefit formula factors not indexed

[In percent]

Year:	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1979	\$4,444	46	58	35	10.9	4.5
1985	4,481	40	52	28	11.1	4.6
1990	4,868	40	52	28	11.2	4.6
1995	5,293	40	52	29	11.2	4.6
2000	5,752	40	52	29	11.3	4.6
2010	6,797	40	52	30	12.3	5.1
2020	8,032	40	52	30	14.9	6.1
2030	9,492	40	52	30	16.9	7.0
2040	11,215	40	52	30	16.4	6.8
2050	13,252	40	52	30	15.9	6.5

	Percent
Average medium-range cost (1977–2001)	11.1
Average medium-range revenue (present law)	9.9
Average medium-range deficit	-1.2
Average long-range cost (1977–2051)	13.7
Average long-range revenue (present law)	11.0
Average long-range deficit	-2.7

¹ Assumed to be 4 times the average 1st quarter covered earnings.

² Assumed at \$4,600 in 1976 and following the trends of the average.

³ Assumed at the maximum taxable under the program.

⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

⁵ Assumed to be based on the present new benefit formula for all workers attaining age 62 before Jan. 1, 1979 (as in H.R. 8218).

NOTE.—The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement. The values in this table refer only to the Myers wage-indexing proposal with the transitional provision and exclude the effect of any other benefit and financing modifications.

This proposal suggests that the rise in replacement rates resulting from the 1972 legislation and the subsequent automatic benefit increases is unwarranted. And it would somewhat reduce the relative role of social security as a retirement program and place greater reliance on private pensions, personal savings, private insurance and means-tested public assistance in meeting the retirement income needs of the aged.

Since replacement rates would be lowered, this approach would eliminate the costs of rising replacement rates in the future plus the costs arising from the effect of benefit increases since 1972 on replacement rates. The proposal would reduce the deficits to 1.1 percent over the medium range and to 2.7 percent over the 75-year valuation period.

In testimony before the Subcommittee, Mr. Myers suggested increasing the present law tax rate schedule, by 0.5 percent in 1978 and by an additional 0.25 percent in 1985 for employers and employees, each, and increasing the self-employment tax rate as per the Administration. If these proposals were adopted, in conjunction with the dependency test included in the Administration bill, there will be a surplus of 0.3 percent of taxable payroll over the medium range and a deficit of 1.0 percent over the long range.

Declining Replacement Rates Based on Price Indexing

The Panel of Consultants to the Congressional Research Service (Hsiao panel) recommended a decoupling proposal under which replacement rates would decline rapidly until 1991 and gradually thereafter. Replacement rates for the average worker would decline to 26 percent (as compared with 45 percent under the Carter proposal and 40 percent under the Myers proposal) for workers retiring in the year 2050. The range of replacement rates between regularly employed low-wage earners and maximum earners would also be reduced. Currently, replacement rates range from 58 percent for low-wage earners to 35 percent for maximum earners. Under the price indexing proposal, these replacement rates would eventually range from 32 percent to 23 percent respectively.

This proposal would substantially reduce benefit amounts below what could be expected if replacement rates were maintained at current levels. For example the average earner who retires in 1990 would receive about \$786 a month (45 percent of his prior earnings) under the Administration's proposal, and \$662 a month (38 percent of prior earnings) under this proposal. This differential would gradually increase for average workers who retire after 1990. Thus, a worker's initial benefit upon retirement in the future would reflect only part of the increase in real wages and the increase in the standard of living that has occurred during his lifetime. It would reflect more than the increase in the cost of living, however. Initial benefits for workers who retire between now and 1991 would reflect only a small part of the real wage growth that occurs during the period. After 1991, the rate of decline in replacement rates is much slower, and a slowly growing proportion of real wage growth would be reflected in the initial benefit amount.

TABLE 5.—Declining replacement rates through price indexing

(Proposal recommended by panel of consultants to Congressional Research Service—
Hsiao Panel)

- Initial average benefit close to present law in 1979
- Workers earnings records CPI indexed
- Benefit formula bend points CPI indexed
- Benefit formula factors not indexed

[In percent]

Year:	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1979.....	\$4,444	46	58	35	10.9	4.5
1985.....	4,508	41	53	30	11.0	4.5
1990.....	4,597	38	50	28	11.0	4.5
1995.....	4,713	36	47	28	10.8	4.4
2000.....	4,908	34	45	28	10.5	4.3
2010.....	5,360	32	42	27	10.6	4.3
2020.....	5,962	30	40	26	12.0	4.9
2030.....	6,665	28	37	25	12.8	5.3
2040.....	7,496	27	35	24	11.8	4.9
2050.....	8,477	26	32	23	10.9	4.5

	Percent
Average medium-range cost (1977–2001).....	10.8
Average medium-range revenue (present law).....	9.9
Average medium-range deficit.....	0.9
Average long-range cost (1977–2051).....	11.3
Average long-range revenue (present law).....	11.0
Average long-range deficit.....	0.3

¹ Assumed to be 4 times the average 1st quarter covered earnings.² Assumed at \$4,600 in 1976 and following the trends of the average.³ Assumed at the maximum taxable under the program.⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.⁵ Assumed to be based on the present law benefit formula for all workers attaining age 62 before Jan. 1, 1979 (as in H. R. 8218).

NOTE.—The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative 11) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement. The values in this table refer only to the Hsiao price indexing proposal with the transitional provision and exclude the effect of all other benefit and financing modifications.

Under current assumptions, enactment of this proposal would virtually eliminate the long-range deficit, although some additional revenues would still be needed. The deficits would be reduced to 0.9 percent of payroll over the medium range and to 0.3 percent over the long range. The Panel also suggested a wage base increase and tax rate adjustments that would reduce the deficits further.

In considering the cost-reduction effect of this proposal, it should be noted that one of the goals of the panel's proposal is to give Congress flexibility to adjust benefits from time to time through ad hoc action to restore replacement rates as economic and social conditions change. If replacement rates are restored in the future, additional financing may be required and the cost reduction resulting from this option would not be realized.

The panel's proposal implicitly assumes that if real wage growth occurs, workers will be able to afford to purchase private protection if they want to maintain the same standard of living in retirement as would be provided by social security under either proposal to maintain constant replacement rates. If workers fail to purchase private protection and Congress does not restore replacement rates, this alternative may result in shifting some part of the cost of income maintenance for the aged from social security to public assistance.

Although the proposed benefit formula would be less sensitive to changing economic conditions than present law, it would be more sensitive than either of the wage indexing proposals described previously because initial benefits would still be affected by both price and wage changes.

Combination Approach

A decoupled social security benefit structure can be designed so as to provide constant replacement rates for certain periods and declining replacement rates during other periods. The Senate Finance Committee staff developed one such decoupling approach under which replacement rates would be constant through 1987, decline during the 1988-2030 period, and remain constant thereafter. Although this approach is based on indexing both the worker's wages and the benefit formula to changes in average wages, the benefit percentage factors that apply to different ranges of average indexed monthly earnings in the formula would be reduced by one-half the increase in real wages each year during 1988-2030. This would cause replacement rates to decline during the period.

The decline in replacement rates occurs approximately at the same time that the ratio of beneficiaries to workers is increasing so it may be assumed that this pattern of replacement rates is intended both to correct the flaw in the present benefit structure and to offset nearly all of the cost effects due to projected demographic changes. The decline in replacement rates would reduce the medium-range deficit from 2.34 percent to 1.7 percent and the overall decline would reduce the long-range deficit from 8.2 percent to 1.6 percent.

The Senate Finance Committee staff also suggested increasing tax rates in 1981, eliminating the wage base for employers in 1978, offsetting benefits for dependents and survivors by the amount of any pension based on non-covered employment that is received from a public retirement system, reallocating taxes from the HI trust fund, increasing the wage base for employees and self-employed persons as in the administration bill, and increasing the self-employed tax rate (also in the administration bill). The overall effect of these changes would be to provide a 0.6 percent surplus over the next 25 years and a 0.2 percent surplus over the next 75 years.

TABLE 6.—*Combination alternative*

(Proposal recommended by Senate Finance Committee staff)

- Initial average benefit close to present law in 1978
- Workers earnings records wage indexed
- Benefit formula bend points wage indexed
- Benefit formula factors not indexed before 1988, then reduced by 50 percent of gains in real earnings until 2030, thereafter not indexed

[In percent]

Years:	Worker with average earnings ¹		Replacement rate for worker with—		Aggregate OASD expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings ²	High earnings ³	As percent of payroll	As percent of GNP ⁴
1979-----	\$4,444	46	58	35	10.9	4.5
1985-----	4,949	45	57	34	11.5	4.7
1990-----	5,243	44	56	33	11.9	4.9
1995-----	5,466	42	54	32	12.0	4.9
2000-----	5,697	40	52	32	11.9	4.9
2010-----	6,191	37	47	30	12.1	5.0
2020-----	6,727	34	44	28	13.6	5.6
2030-----	7,311	31	40	25	14.3	5.9
2040-----	8,639	31	40	25	13.2	5.4
2050-----	10,208	31	40	25	12.6	5.2

	Percent
Average medium-range cost (1977-2001)-----	11.6
Average medium-range revenue (present law)-----	9.9
Average medium-range balance-----	-1.7
Average long-range cost (1977-2051)-----	12.6
Average long-range revenue (present law)-----	11.0
Average long-range balance-----	-1.6

¹ Assumed to be 4 times the average 1st quarter covered earnings.² Assumed at \$4,600 in 1978 and following the trends of the average.³ Assumed at the maximum taxable under the program.⁴ Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.⁵ Assumed to be based on the present law benefit formula for all workers attaining age 62 before Jan. 1, 1979 (as in H. R. 3218).

NOTE.—The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative 11) in the 1977 OASDI Trustees Report. The replacement rates pertain to worker with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement. The values in this table refer only to the combination alternative with the transitional provision and exclude the effect of all other benefit and financing modifications.

Only part of the real wage growth that occurs during the 1988-2030 period would be reflected in initial social security benefit amounts. As workers retire, become disabled, or die during the declining replacement rate period, they would have to rely on private pensions, other forms of private protection, or public assistance programs to meet an ever increasing proportion of their income needs. Thus, the projected increase in dependency costs of the aged resulting from the drop in fertility rates (number of children per woman of child-bearing age) would be met by reducing the benefits payable to future beneficiaries.

As a result, the cost of the social security program as a percentage of taxable payroll would be reduced considerably, which means that the revenues needed to support the program in the next century would be significantly lower than under present law, the Carter Administration proposal, or the proposal of the business community.

On the other hand, the decline in replacement rates would appear to be governed solely by cost considerations rather than by any judgment between appropriate and excessive replacement rates. In particular, the timing of this decline is subject to question. By maintaining constant replacement rates for 10 years before starting to reduce them, the proposal fails to deal with the difficult policy decision relating to proper replacement rates in a realistic and permanent manner.

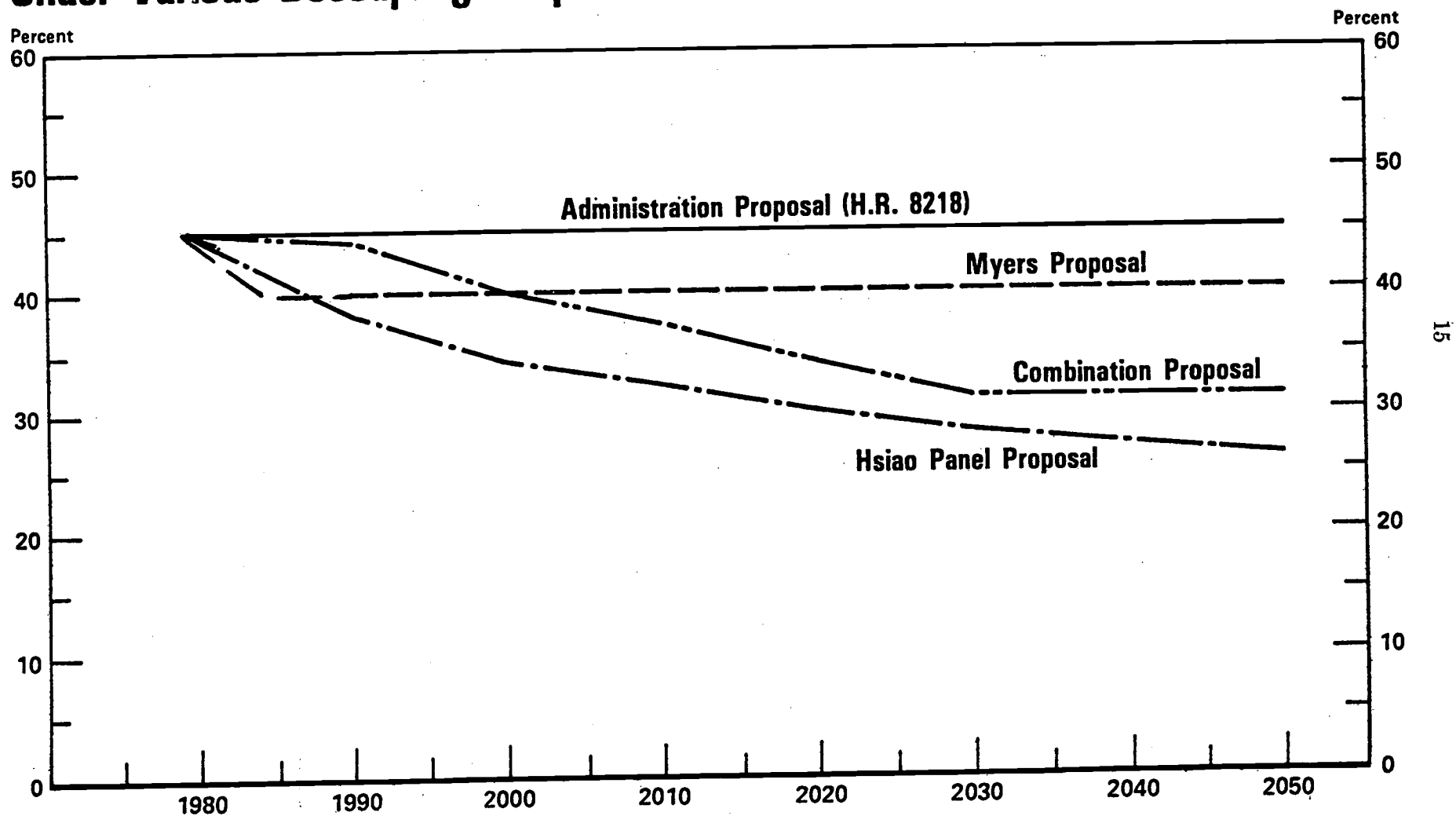
*Cost Effects and Replacement Rates Compared*TABLE 7.—*Effect of alternative decoupling plans on average medium- and long-range deficits*

[In percent of taxable payroll]

	Present law	Carter Ad- ministration	Myers	Hslao	Senate Fi- nance Com- mittee staff
Average medium-range (1977- 2001):					
Cost.....	12.2	11.8	11.1	10.8	11.6
Revenue.....	9.9	9.9	9.9	9.9	9.9
Deficit.....	2.3	1.9	1.2	0.9	1.7
Average long-range (1977-2051):					
Cost.....	19.2	15.3	13.7	11.3	12.6
Revenue.....	11.0	11.0	11.0	11.0	11.0
Deficit.....	8.2	4.3	2.7	0.3	1.6

CHART IV

Comparison of Replacement Rates for Average Earner Under Various Decoupling Proposals



COMPARISON OF VARIOUS PROPOSALS FOR

Provision	Advisory Council Proposal (1974-5)	Administration Proposal 1/ (H.R. 8218)	NAM-Myers' Proposal 1/
<u>Effective Date</u>	Not specified	1979	1979
<u>Method of Indexing</u>	To wages	To wages	To wages
<u>Replacement Ratio 3/</u>	Constant	Constant	Constant
<u>Earnings Excluded from Indexing</u>	Not specified	Earnings of workers who attained age 62, had an onset of disability (unless worker recovered), or died, prior to 1979.	Earnings of workers entitled to retirement or disability benefits (unless worker recovered) or who died prior to 1979.
<u>Point to Which Earnings Indexed or Length of Computation Period</u>	Most recent calendar year for which annual average wage data are available.	Earliest of: Second year before entitlement to retirement benefits, onset of disability, or death, but not before 1977.	Earliest of: Second year before attainment of age 62, entitlement to disability benefits, or death, but not before 1977.
<u>PIA Formula</u>	100% of first \$123 of AIME 5/, + 31% of AIME over \$123 (if effective date is 1976.) -- or -- 100% of first \$X of AIME, + 31% of next \$Y of AIME, + 20% of AIME over (5X + 5Y).	94% of first \$180 of AIME, + 34% of next \$895 of AIME, + 16% of AIME over \$1075.	92% of first \$100 of AIME, + 30% of next \$70 of AIME, + 10% of AIME over \$950
<u>Adjustment of PIA Formula</u>	Each year, adjust bend points 6/ by increase in average wages.	Each year, adjust bend points by increase in average wages; round to nearest \$5.	Each year, adjust bend points by increase in average wages; round to nearest \$1.
<u>Family Maximum Formula</u>	Not specified	150% of first \$245 of PIA, + 275% of next \$95 of PIA, + 130% of next \$115 of PIA, + 175% of PIA over \$455. Adjust maximum formula like PIA formula.	150% of first \$249 of PIA, + 275% of next \$114 of PIA, + 130% of next \$114 of PIA, + 175% of PIA over \$477. Adjust maximum formula like PIA formula.
<u>Minimum PIA</u>	Frozen at level in effect when proposal implemented.	Increases with CPI increases beginning in 1979.	Frozen at level in effect when proposal implemented.
<u>Cost-of-Living Increases</u>	Effective after retirement, death, or disability.	Effective with year of entitlement to retirement benefits, onset of disability, death (or 1979, if later).	Effective with year of attainment of age 62, entitlement to disability benefits, death (or 1979, if later).
<u>Earnings Used for Recomputations</u>	Not specified	Count dollar amount of earnings after the year to which earnings are indexed. 8/	Count at dollar amount of earnings after the year to which earnings are indexed.
<u>Transition</u>	Indefinite duration; guarantees benefit table effective at implementation without CPI increases.	5-year guarantee for all retirees who are age 62 after 1978 and before 1984; guarantee 12/78 benefit table after 1978 and prior to year of first eligibility (with CPI increases only from year of age 62 and use of earnings up to year of age 62).	Permanent; guarantees benefits in table at time of implementation. 10/

- 1/ These proposals are patterned after the general recommendations of the 1975 Advisory Council on Social Security.
2/ Apparently this is a technical defect.
3/ Worker's age-62 primary insurance amounts (PIA) as a percent of preretirement earnings for succeeding groups of retirees over time.
4/ The panel's report is not clear on this point, but the system would apparently index to eligibility. The report does not make recommendations for treatment of disability or death cases but says they must be studied further.
5/ Average indexed monthly earnings.

DECOUPLING THE SOCIAL SECURITY SYSTEM

Reagan Bill (S. 559) 1/	Hsiao Panel Proposal (1976)	Whalen Bill (H.R. 8368)	Combination Proposal (SFC 7/77 Staff Paper)
1978	1980	1979	1978
To wages (assumes quarterly reporting 2/ of wages).	To prices	Not indexed	To wages
Constant	Declining	Constant	1978-87, constant; 1988-2030, declining; after 2031, constant
Earnings of workers who became entitled to retirement or disability benefits (unless worker recovered) or died, prior to 1978.	Not specified	Not applicable	Earnings of workers who attained age 62, had an onset of disability (unless worker recovered), or died prior to 1978.
Earliest of: Year before attainment of age 62, entitlement to disability benefits, or death, but not before 1977.	Year before attainment of age 62 but not before 1976. 4/	10 highest years.	Earliest of: Second year before entitlement to retirement benefits, onset of disability, or death, but not before 1976.
91% of first \$175 of AIME, + 33% of next \$875 of AIME, + 17% of AIME over \$1050.	80% of first \$200 of AIME, + 35% of next \$400 of AIME, + 25% of AIME over \$600. (Formula is for 1977; it would have to be updated for 1980 effective date.)	100% of first \$110 of AIME, + 31% of next \$940 of AIME, + 20% of AIME over \$1050.	91% of first \$175 of AIME, + 33% of next \$870 of AIME, + 16% of AIME over \$1046.
Each year, adjust bend points by increase in average wages; round to nearest \$.01.	Each year, adjust bend points by increase in the CPI. 7/	Each year, adjust bend points by increase in average wages; round to nearest \$1.	Adjust bend points by increases in average wages; for 1988-2030, decrease percentage factor each year by half the gain in real wages.
150% of first \$205 of PIA, + 275% of next \$92 of PIA, + 129% of next \$98 of PIA, + 175% of PIA over \$385. No adjustment of maximum formula. 2/	In retirement cases, 120% of AIME (or 240% of the average AIME in two-worker families), but no more than 50% of PIA at the first bend point in PIA formula to a child. In disability and survivor cases--no recommendation.	150% of first \$230 of PIA, + 275% of next \$105 of PIA, + 130% of next \$95 of PIA, + 175% of PIA over \$430. Adjust maximum formula like PIA formula.	150% of first \$245 of PIA, + 275% of next \$95 of PIA, + 130% of next \$115 of PIA, + 175% of PIA over \$455. Adjust maximum formula like PIA formula.
Increases with CPI increases beginning in 1976.	Eliminates the minimum.	Eliminates the minimum.	Increases with CPI beginning with 1978.
Effective with year of attainment of age 62, entitlement to disability benefits, death (or 1978, if later).	Effective after retirement.	Effective after retirement, death, or disability.	Effective with year of entitlement to retirement benefits, entitlement to disability benefits, death (or 1978, if later).
Count at dollar amount of earnings after the year to which earnings are indexed.	Not specified	Count earnings after year of entitlement to retirement or disability benefits. 9/	Count at dollar amount of earnings after the year to which earnings are indexed.
10-year guarantee for all individuals who are age 62, entitled to disability benefits or die before 1988 and 10-year saving clause for family maximum; guarantees 12/77 benefit table after 1977 and prior to age 62, disability entitlement, or death (with CPI increases thereafter).	5-year guarantee for all workers born in 1917 to 1922, a benefit based on a combination of percentage of old-law benefit, (decreasing from 100% to 20% in equal steps over the 5-year period). For those born in 1922 and later a benefit based on new law only.	10-year guarantee for all individuals who are age 62, have an onset of disability, or die prior to 1989; guarantees 12/78 benefit table after 1978 and prior to year of death or first eligibility (with CPI increases only from year of age 62, onset of disability, or death).	5-year guarantee for all retirees who are age 62 after 1977 and before 1983; guarantee 12/77 benefit table after 1977 and prior to year of first eligibility (with CPI increases only from year of age 62 and use of earnings up to year of age 62).

6/ Average monthly earnings level at which the formula percentage changes.

7/ Consumer Price Index.

8/ Present law recomputation procedures would apply to workers who reach age 62 or have an onset of disability prior to 1979.

9/ The bill has a technical defect which does not permit the use of earnings after the year the worker reaches age 72.

10/ Applicable to persons with 1 quarter of coverage before 1978.

SPECIFIC DECOUPLING ISSUES

The essential elements of any decoupling proposal relate to:

- (1) The measure of earnings—usually expressed as average monthly earnings, whether indexed or not.
- (2) The computation period—whether or not the period for computing average monthly earnings would gradually increase as under present law or be limited to a shorter period.
- (3) The benefit formula—whether or not the formula would approximate present law benefits at implementation and keep up to date with wages in the future.

These elements need to be considered together since virtually any change in any one of them will necessitate changes in the others and may give rise to the need for additional changes. For instance an explicit recognition of length-of-service might be incorporated if a short computation period is used or consideration given to a separate benefit formula for disability and survivor cases.

Under any proposal of this magnitude it is also necessary to make conforming changes in other provisions of the cash benefits program—e.g., the minimum benefit, the family maximum benefit. Under H.R. 8218, such changes have generally been designed to reproduce the effects of present law.

The following pages discuss these issues in terms of the Administration's bill.

Wage Indexing

A worker's earnings in each year after 1950 would be updated through the second year² before the worker retires.³ Specifically, each year's earnings would be indexed by multiplying the actual earnings by the ratio of average wages in the second year before retirement to the average wages in the year being updated. For example, if a worker earned \$3,000 in 1956, and retired at age 65 in 1979, the \$3,000 would be multiplied by the ratio of average annual wages in 1977 (\$10,002) to average annual wages in 1956 (\$3,514), as follows:

$$\$3,000 \times \frac{\$10,002}{\$3,514} = \$8,539$$

Thus, while the worker's actual earnings for 1956 were \$3,000, his relative or wage-indexed earnings would be \$8,539. The worker's earnings each year would be adjusted in this manner. The result would be that the worker's benefits would be based on earnings levels that prevail just prior to retirement, disability, or, in the case of survivors, death. In effect, benefits would be based on the worker's relative earnings (that is, relative to average wages) averaged over the computation period. (See Computation Period.)

Wage indexing has the effect of treating high earnings the same regardless of whether they occur early or late in the person's working lifetime. As compared with present law, wage indexing tends to advantage workers with high relative earnings early in their career and disadvantage those with high relative earnings late in their career.

² While it would seem reasonable to update earnings through the first year before the year of retirement, firm data on actual wage growth will not be available in time to allow for such current indexing. For 1978 and subsequent years, the law provides that earnings will be reported on an annual, rather than a quarterly basis. Thus, for example, data on average wage levels in 1980 will not become available in time to form an indexing basis for 1981 retirees; 1980 would be the indexing year for 1982 retirees. Another approach would be to use an estimated average wage for the year before retirement. (Suggested by Robert J. Myers.) However, this approach could cause problems if actual experience varied from the estimate; for example, people might complain if the actual average were higher than the estimate that had been used. This situation could lead to pressure for reindexing using actual wage data for such years, which would be an added program complexity.

³ The year of retirement for this purpose is the year of initial entitlement—that is, the year for which the worker elects to receive retirement benefits (whether or not he actually is paid a benefit in that year), the year of onset of disability, or the year he dies.

Alternatives

Actual earnings.—H.R. 4870, the Whalen bill, would use actual earnings averaged over a 10-year period. If actual earnings are used, a fixed—rather than expanding—computation period would be necessary to assure that individuals' average earnings would grow at roughly the same rate as average earnings in the national economy. A fixed, short period, such as is provided in H.R. 4870, might invite pressure to add an explicit length-of-service measure, in order to distinguish between short- and long-term workers. (It would be difficult to devise an equitable length-of-service measure that would not give rise to windfalls or disadvantage low-paid regular workers.)

The benefit formula would have to be revised in order to replicate present-law benefits at the time of implementation or to produce whatever replacement rate levels were desired. Assuming a benefit formula designed to reproduce present-law benefits at implementation, program costs would be reduced somewhat more by the Administration proposal than by a proposal using a short, fixed computation period (such as is provided in the Whalen bill). This is true because the relative advantage of a short fixed computation would increase over time as the computation period under H.R. 8218 lengthens. While indexing the workers earnings under H.R. 8218 largely overcomes the effect of outdated earnings in a lengthening computation period, the longer computation period would act as a measure of continuity of covered employment. With a short, fixed computation period, a larger and larger number of years of low or no earnings could be excluded from the average period.

Basing benefits on actual earnings, as under present law, advantages workers who have high earnings late in their working lifetime as opposed to early in their career.

Price-indexed earnings (Hsiao Panel).—Under the Hsiao Panel approach, wages would be indexed in relation to the CPI to produce "price indexed earnings". Under this approach the system would be somewhat sensitive to the relationship between wages and prices but to a lesser extent than under present law.

Indexing earnings by the CPI injures the position of workers who have high earnings in their 20's but not as much as wage indexing. Thus price indexing provides some advantage but not as much as basing benefits on actual earnings as under present law, for workers whose earnings rise faster than the average toward the end of their working lifetime.

A comparison of average monthly earnings under various alternatives is shown below for people retiring at age 62 in 1979.⁴ The differences would be even larger if the earnings were averaged over a 35-year period.

TABLE 8

Earnings pattern	Average monthly earnings			
	Present law ¹	Administration proposal	Hsiao panel	Whalen bill ¹
Increasing slower than average wages.....	\$372	\$712	\$643	\$455
Equal to average wages each year.....	500	836	814	669
Increasing faster than average wages (equal to contribution and benefit base each year)-	678	1, 107	1, 062	1, 000
Level, \$3,000 each year.....	250	582	506	250

¹ Actual, rather than indexed, earnings as under administration and Hsiao panel proposals.

⁴ The average monthly earnings were calculated on the basis of a worker reaching age 62 in 1979 (rather than age 65) in order to facilitate comparison with the panel approach—the draft panel report lacks clarity with respect to the treatment of workers retiring after age 62. Elsewhere, where possible, age 65 has been used.

Computation Period

Under most of the major decoupling proposals, as under present law, benefits would be based on a worker's indexed earnings averaged over the period since 1950, when the worker could reasonably have been expected to have worked in covered employment, not counting the 5 years of lowest indexed earnings.⁶ As under present law, the computation period would expand—from 20 years for those reaching age 65 in 1979, up to 35 years for those reaching age 65 in 1994 or later. If a worker's earnings increase at the same rate as average wages in the economy, indexing his actual earnings to changes in average wage levels would assure that his average indexed monthly earnings (AIME) would rise at the same rate as average wages in the economy, even though the computation period is expanding. Indexing according to changes in wage levels also generally would assure that the benefits payable to a worker (and his family) would be based on his relative earnings position—that is, relative to average wages in the economy.

The long computation period tends to distinguish between short- and long-term workers since, all other things being equal, the latter would have higher average earnings and would therefore get a higher benefit amount.

Alternative

Fixed, short computation period.—Relatively constant replacement rates could also be achieved with a fixed, short computation period. It could be fixed at 20 years or, alternatively, as under H.R. 4870, the Whalen bill, it could be fixed at 10 years. If the period is set at 10 or 20 years workers with 10 or 20 years of coverage could get the same benefit as workers with 35 or 40 years of service. Thus, consideration would probably need to be given to an explicit length-of-service factor.

While length of service with a single employer may not be unduly difficult to measure, application of this concept to a national program like social security poses some problems. There is no feasible way to measure length of service in employment covered by social security that would not give rise to serious inequities. As a practical matter, use of quarters of coverage as a measure of length of service would raise a number of issues. It is possible for some workers to gain 4 quarters of coverage by having worked only a few weeks during a year—workers with maximum earnings and some self-employed people, for example. Further, records of quarters of coverage under social security prior to 1956 are not available in a form appropriate for machine processing.

An arbitrary dollar amount for each year could serve as the basis for determining length of service. However, if the amount were set relatively high—\$2,000 in 1979, for example—some workers would get credit for a year of service even though they may have worked only a few weeks or months while others who worked for most of the year at low wages would not get credit. In addition regardless of what amount is selected, the amount would have to be adjusted annually to take account of rising wage levels; if not, eventually almost everyone would get credit for a year of service.

The shorter the computation period, the greater the opportunity for workers to manipulate their covered earnings, that is, they might work considerable overtime or in two jobs as they approach retirement in order to increase their average earnings as computed for benefit purposes and thus get "windfall" benefits.

Benefit Formula

The formula that approximates benefit amounts in present law applies to average monthly earnings, which are computed from the worker's actual or unindexed earnings in covered employment. As shown below, the present law formula has 9 steps. Each time the contribution and benefit base is increased, an additional step is added to the formula and each time there is an automatic benefit increase, the percentage factors in the formula are increased by the percentage increase in benefits.

⁶ Benefits based on earnings before 1951 would be calculated, essentially, as under present law—see page 30.

Though not stated in the law, the formula that roughly approximates the primary insurance amounts in the table in the law, effective June 1977, is:

145.90 percent of first \$110 of AME,
 53.06 percent of next \$290 of AME,
 49.58 percent of next \$150 of AME,
 58.30 percent of next \$100 of AME,
 32.42 percent of next \$100 of AME,
 27.02 percent of next \$250 of AME,
 24.34 percent of next \$175 of AME,
 22.54 percent of next \$100 of AME,
 21.18 percent of next \$100 of AME.

The benefit formula in H.R. 8218, shown below, would be applied to the worker's average indexed monthly earnings (AIME). The formula is designed to approximate as closely as possible the benefit amounts payable to workers who retire in January 1979 (based on the assumption that the revised benefit structure would go into effect in that month) under present law:⁶

94 percent of the first \$180 of AIME, plus
 34 percent of AIME over \$180 through AIME of \$1,075, plus
 16 percent of AIME above \$1,075.

This formula would apply to those who reached age 62 and retire, have an onset of disability, or die in 1979. The dollar amounts (bend points)⁷ in the formula would be adjusted automatically as average wages increase for those entitled in the future. A comparison of PIA's under present law and the proposal for selected average monthly earnings (AME) and AIME levels for January 1979 is illustrated in the following table:

TABLE 9

AME present law	AIME ¹ proposal	PIA		Difference	
		Present law	Proposal	Amount	Percent
\$50	\$83	\$121	² \$121	0	0
76	126	121	² 121	0	0
110	182	171	170	-\$1	-.6
200	331	220	221	1	.5
300	496	276	277	1	.4
400	662	333	333	0	0
500	827	385	389	4	1.0
650	1,075	472	474	2	.4
³ 727	1,203	499	494	-5	-1.0

¹ In this table AIME and AME are "equated," for illustrative purposes, through the use of a general equivalence guide developed by the Office of the Actuary, Social Security Administration, rather than by an individual comparison of actual wage histories with and without indexing. As a result, the PIA's shown in the "proposal" column of the table are approximate and may not be the same as PIA's shown elsewhere based on AIME computed by actually indexing earnings.

² The minimum benefit guarantee, described under a separate heading is applicable.

³ AME of \$727 are the highest possible for the age-65 retirements in 1979.

Alternatives

(1) Unindexed earnings formula (Whalen)

Under H.R. 4870, benefit amounts would be based on the worker's 10 years of highest actual or unindexed earnings in covered employment. The specific benefit formula in H.R. 4870 is shown below. The dollar amounts (bend points) in the formula would be adjusted each year by the percentage increase in average wages, as under H.R. 8218.

100 percent of first \$110 of AME, plus
 31 percent of next \$940 of AME, plus
 20 percent of AME \$1,050.

⁴ The formula approximates the effects of present law at the beginning of 1979. A revised formula would be necessary to approximate later experience, say, 1980. The actual formula would be designed to approximate the benefit table in effect at the time of implementation. Of course, as provided under some of the alternative approaches the benefit formula could be changed so that it would weight benefits in favor of those with low earnings more or less heavily than is true under present law. This could be accomplished by changing the starting dollar amounts or by changing the applicable benefit percentages. The degree of weighting in the benefit formula is a controversial area on which consensus is difficult to achieve, since there are few, if any, objective standards.

⁷ The bend points are the AIME levels at which the weighting in the benefit formula changes. The adjusted bend points would be rounded to the nearest multiple of \$5.

(2) Lower general benefit levels (Myers)

The formula could be changed so that it would approximate benefit levels prevailing under present law sometime in the past—say before the ad hoc benefit increases of the early 1970's. If this were done, replacement rates would be stabilized at lower levels than those prevailing at the time of implementation, and greater reliance would need to be placed on a transitional provision to prevent sharp benefit reductions for large numbers of new retirees. The proposed formula for 1979 is:

82 percent of first \$190 of AIME, plus
30 percent of next \$760 of AIME, plus
10 percent of AIME over \$950

(3) Price-indexing formula (Hsiao panel)

If the dollar amounts in the formula were adjusted as prices increase (as is generally done in price-indexing systems) rather than as average wages increase, replacement rates would decline in the future. (The decline would be even sharper if the bend points were not indexed at all.) The proposed formula for 1977 is:

80 percent of first \$200 of AIME, plus
35 percent of next \$400 of AIME, plus
25 percent of AIME over \$600

(4) Combination approach—Index formula by a portion of real wage growth

Such a formula could be essentially the same as in H.R. 8218 for the first 10 years. During the 1988–2030 period the dollar amounts in the formula (bend points) would be adjusted to wages but the percentage factors would be decreased each year by 50 percent of the difference between average wage and price increases. Under this approach, replacement rates would decline but (in contrast to the price-indexing approach) the relative weighting of the benefit formula would be maintained. Such an approach is included in the Senate Finance Committee staff decoupling “combination plan” under which replacement rates would be stabilized at present-law levels at implementation for a period of about 10 years, then decline for a period of about 40 years, and then be stabilized again after 2030 at a lower level.

The Minimum Benefit

Under the Administration proposal, as under present law, the minimum benefit (now \$114.30) would rise with prices. Thus, the minimum benefit (estimated to be \$120.60 in January 1979) would rise (under the intermediate assumptions used in the 1977 trustees' report) to about \$139 in January 1982, and by 4 percent per year thereafter. A worker coming on the rolls in the future would get the higher of the benefit based on the benefit formula applied to his AIME or the minimum benefit.

Since the minimum would only be adjusted by CPI increases and since wage levels, and hence benefit amounts based on those wage levels, are expected to go up at a faster rate than the cost of living, the trend should be for a smaller percentage of newly entitled people each year to get benefits based on the minimum. Although the minimum benefit is designed primarily to pay more adequate benefits to workers with low average earnings, it is also paid to higher income workers who qualify for benefits under another public retirement system and also qualify for social security benefits with very little attachment to employment covered by social security.

Alternatives

(1) Eliminate the minimum benefit prospectively.—Under this alternative, which was suggested by the Hsiao panel, a person with very low average earnings would get whatever benefit would result from applying the benefit formula to his average earnings.

Eliminating the minimum would result in sharp reductions in benefits for substantial numbers of people. (In recent years about 10 percent of awards to retired workers have been based on the minimum.) Thus, it would raise questions such as (1) the application of the transitional provision to workers with very low earnings and (2) the availability of SSI or other needs-tested payments for needy people affected by the change.

Under any of the decoupling proposals discussed herein, if this provision were applied to future beneficiaries, the long range program savings would be about 0.03 or 0.04 percent to taxable payroll.

(2) *Freeze the minimum benefit prospectively.*—For future beneficiaries, provide that initial PIA's would be frozen at an amount equal to the minimum PIA in effect at the time of enactment of the provision. After entitlement, benefits based on the minimum PIA would be updated to CPI increases as under present law. (Freezing the minimum benefit was recommended by the 1975 Advisory Council on Social Security and is included in the Myers decoupling proposal.)

Freezing the minimum would avoid the sharp drop in benefit amounts involved in the elimination of the minimum and would involve similar, though more gradual, reductions in future benefits for people with very low average earnings under social security.

Under any of the decoupling proposals discussed herein, social security costs would be reduced by about 0.02 percent of taxable payroll over the long range.

Maximum Family Benefits

Under H.R. 8218, maximum family benefits would bear the same relationship to PIA's as they do under present law—ranging from 150 percent to 188 percent of the PIA.⁸ The family maximum would be determined by applying the formula shown to the worker's PIA:

150 percent of the first \$245 of PIA, plus
275 percent of PIA's over \$245 through \$340, plus
130 percent of PIA's over \$340 through \$455, plus
175 percent of PIA's above \$455

In the future, the dollar amounts (bend points) in the formula would be adjusted as average wages increase. A comparison of maximum family benefits at different earnings levels under present law and under the revised benefit structure is shown in the following table.

TABLE 10.—*Comparison of maximum family benefits in January 1979*

AME present law	AIME proposal	Maximum family benefits		Difference	
		Present law	Proposal	Amount	Percent
\$50	\$83	\$182	\$182	0	0
76	126	182	182	0	0
110	182	256	255	-\$1	-. 4
200	331	330	332	2	. 6
300	496	452	456	4	. 9
400	662	607	610	3	. 5
500	827	705	692	-13	-1. 8
650	1, 075	826	812	-14	-1. 7
1 727	1, 203	872	846	-26	-3. 0

¹ AME of \$727 are in general the highest possible for age-65 retirements in 1979.

This treatment of the family maximum is similar to that in other decoupling proposals.

⁸ Since the 1971 amendments the maximum family benefit has been related to PIA's at all earnings levels (rather than to average earnings as had previously been the case for higher paid workers). On the basis of this relationship to PIA, in 1979 the family maximum will be equal to 150 percent of PIA's up to an estimated PIA of \$242.30. It gradually increases to 188 percent of an estimated PIA of \$349.90 and then declines to 175 percent of PIA's at an estimated PIA of \$459.10 and above.

Alternative

Flat-rate percentage maximum family benefit.—The family maximum could be made a flat-rate percentage of the PIA. This approach would be administratively less complicated and more easily understood by the public than the provision in the Administration proposal. However, if the maximum family benefits are set at a low percentage, say, 150 percent of PIA's or even an intermediate percentage, say, 175 percent of PIA's, many families would get substantially lower benefits than under present law, which would raise the question of whether a separate transitional provision for maximum family benefits should be provided. (The Administration's transitional proposal guarantees PIA's not family maximums because to do so would be an administrative complication.) On the other hand, if maximum family benefits were set at, say, 188 percent of PIA's (the highest percentage payable under present law), the cost of the proposal would be increased. At the 150-percent level, cost would be reduced.

Transitional Provision

The decoupled system proposed by the Administration is designed to closely approximate overall retirement benefits that would be payable at implementation (January 1979) under present law. However, it is unavoidable that some workers would receive somewhat higher retirement benefits and others somewhat lower under the new system than under present law upon implementation.

H.R. 8218 includes a 5-year transitional provision to protect the benefit rights of people who are now approaching age 62 and whose retirement plans have taken social security benefits into account. Under the provision, a worker who reaches age 62 after 1978 and before 1984 would be guaranteed a benefit no lower than he would have received under present law when the new system becomes effective (January 1979). The guarantee would not apply in disability and death cases. Benefits for workers who become disabled after 1978 and the survivors of workers who die after 1978 would generally be figured only under wage indexing.

The PIA for a worker reaching age 62 after 1978 and before 1984 (and his dependents or survivors) would be the higher of (1) the amount based on the benefit table in the law at implementation (the guarantee), (2) the minimum benefit, or (3) the amount derived by applying the new benefit formula to the worker's AIME.⁹

For purposes of the guarantee, the January 1979 benefit table would not be subject to future automatic benefit increases, but all individual benefits would be subject to all benefit increases becoming effective beginning with age 62. Earnings after age 61 would not be used under the guarantee computation. With the passage of time, benefits under the wage-indexing system would rise beyond the levels generally payable under the guarantee, since annual wage increases would be reflected in higher AIME and in the adjustments in the benefit formula each year. As a result, the proportion of newly entitled beneficiaries that would receive higher benefits under the guarantee would decrease with each passing year.

As shown below, it is estimated that the percent of new retirees eligible for guarantee benefits each year that would receive such benefits would decline from about 28 percent in 1979 to about 2 percent in 1983.

TABLE 11.—*Proportion of new retirees eligible for guarantee who would get benefits under guarantee during transitional period*

Year:	Percent
1979.....	28
1980.....	10
1981.....	6
1982.....	3
1983.....	2

⁹ Under the guarantee the minimum is frozen at the 1979 level, and under the new benefit formula there would be no minimum. Thus, H.R. 8218 makes separate provision for a minimum benefit that rises with prices, as under present law.

A decoupling plan, such as that in H.R. 8218, that is designed to generally reproduce present law benefit levels for retired workers at implementation would result in an overall initial reduction in expenditures, primarily with respect to the disabled and to survivors. (See Benefits in Disability and Death Cases for discussion of the ramifications of having no transition guarantee.)

The following table shows a net cost *reduction* for the H.R. 8218 formula of \$20 million in 1979. This figure reflects a *reduction* of about \$55 million for disability and survivor cases which is offset by a cost *increase* of about \$35 million in retirement cases. The table also shows the additional cost of providing a guarantee in retirement cases (\$10 million) leading to a net effect of a \$10 million overall reduction in expenditures for 1979.

TABLE 12.—*Estimated effect of administration proposal on OASDI benefit payments in calendar years 1979-83 .*

[In millions]

Year	Annual cost effect of H. R. 8218 without guarantee				H. R. 8218 guarantee (retirement only)	Net cost effect of H. R. 8218	
	Retirement	Survivor	Disability	Total		Each year	Cumulative
1979.....	\$35	-\$40	-\$15	-\$20	\$10	-\$10	-\$10
1980.....	125	-100	-105	-80	25	-55	-65
1981.....	240	-175	-225	-160	35	-125	-190
1982.....	370	-255	-375	-260	40	-220	-410
1983.....	510	-345	-550	-385	45	-340	-750

Alternatives

(1) *No transitional provision.*—Elimination of the transitional provision would be an administrative simplification and increase the early year saving under the proposal. However, it would disadvantage some people who are approaching age 62. (All the major decoupling proposals make some provision for a transitional period.)

(2) *Extend guarantee to disability and death cases.*—The guarantee could be extended to apply to all beneficiaries, not just to retirees and their families. This approach would perpetuate to some extent the situation under present law where higher benefits can be paid in early death and disability cases than in retirement cases and also continues present work disincentives for some young disabled workers. (See Benefits in Disability and Death Cases.) It would also involve a substantial early-year cost—\$2.1 billion over the 5-year transitional period.

(3) *Ten-year transition.*—The transitional period could be expanded to a period of 10 years. This approach would extend “guarantee” protection to some additional retired workers (and to a significant proportion of additional disability and survivor cases, if included) as compared with a 5-year transition. It has higher program and administrative costs than a 5-year transition. (Under H.R. 14430, last year’s administration bill, the transitional period was 10 years and applied to death and disability cases as well as to retirement cases.)

(4) *Indefinite transition.*—The transitional provision could be retained indefinitely to assure that no one would be disadvantaged under the proposal as compared with present law at implementation, regardless of when a person became entitled to benefits. This approach is included in the Myers proposal under which decoupled-system replacement rates would be significantly lower than those under present law at implementation.

(5) *Hsiao panel transition*.—Under this approach, benefits during a 5-year period would be a “blend” of present-law benefits and the decoupled-system benefits. This approach is not designed to protect the benefit rights of people near retirement at implementation. Rather, it would phase out the present coupled system gradually to allow for a period of adjustment to a decoupled system. Twenty percent of the benefit of an individual becoming eligible for benefits in the first year of implementation would be computed under the new system and 80 percent under the provisions of present law. In the second year, the blend would be 40–60, and so on.

Benefits in Disability and Death Cases

Under present law, benefits in young disability and death cases can be significantly higher than in retirement cases. The major reason for the higher benefits is that earnings are generally averaged over less than 20 years—2 years in some cases—while, in retirement cases, earnings are averaged over 20 years. Moreover, the benefit differential will grow in the future as the computation period for retirement benefits expands. Under the Administration bill, H.R. 8218, the relative significance of the length of the computation period would be substantially reduced since all prior years of earnings would be indexed to reflect changes in earnings levels since the year the earnings were paid. Thus, average earnings in retirement cases would closely approximate average earnings in early disability or death cases.

In addition, the benefit formula in H.R. 8218 is designed to replicate benefit levels prevailing in retirement cases under present law at implementation. The overall effect of wage indexing and the new formula is a substantial reduction in benefits in early disability and death cases. This reduction to a large degree would deal with the criticism that the high benefits can act as a disincentive for disabled workers, particularly young ones, to return to work or to seek vocational rehabilitation. (The Administration bill last year, H.R. 14430, would have had a similar effect, but, unlike H.R. 8218, provided for a 10-year guarantee so there would have been a gradual, rather than a sharp, reduction in benefits.) For instance, under existing law an individual retiring at age 65 in January 1979 with average earnings would have a retirement benefit of \$399 a month as compared to the benefit of \$540 awarded a worker age 29 or younger who becomes entitled to disability benefits at the same time. Under the new Administration bill the two benefits would be virtually the same; \$339 for the retirement case and \$403 for the young disabled worker.

Some differential would remain for many years with regard to maximum (and above maximum) workers.¹⁰ And some differential in benefit amounts would persist due to other factors (such as insured status requirements). Nevertheless, the basic elements of the present social security program that result in the higher benefits in early disability and death cases—the use of actual (nominal) earnings in a long (and growing) averaging period—would be substantially modified.

¹⁰ If all years used in computing retirement benefits for maximum earners reflect the same relative earnings base level, the base would not be a factor resulting in higher benefits in disability and death cases. However, the base has increased faster than average wages and would continue to rise faster under H.R. 8218 until 1985.

TABLE 13.—*Comparison of projected young death and disability primary benefits (PIA's) and replacement rates under present law and H.R. 8218 for illustrative cases of regular workers with earnings at low, average, and maximum levels*¹

Year of entitlement	Low earnings ²		Average earnings ²		Maximum earnings ²	
	Present law	H. R. 8218	Present law	H. R. 8218	Present law	H. R. 8218
PIA's:						
1979	\$349. 90	\$254. 90	\$539. 70	\$402. 80	\$678. 30	\$529. 50
1980	386. 20	275. 50	588. 70	435. 30	735. 30	569. 80
1981	424. 90	296. 40	638. 60	467. 70	796. 80	613. 90
1982	465. 10	316. 90	686. 00	499. 90	857. 00	648. 20
1983	506. 00	337. 20	733. 60	531. 30	917. 80	702. 50
PIA's as a percent of prior year earnings:						
1979	80	58	62	46	47	37
1980	82	59	62	46	48	37
1981	84	59	63	46	48	37
1982	86	59	63	46	48	37
1983	89	59	64	46	48	37

¹ The table (1) gives PIA's for January of year shown, (2) gives annualized replacement rates, and (3) assumes disability or death occurs before age 30 and that there are no earnings in year of entitlement.

² The 1976 earnings levels of \$4,800 for low earners, \$9,200 for average earners, and \$15,800 for maximum earners are adjusted annually according to the intermediate set of assumptions used in the 1977 annual report of the Board of Trustees of the Federal OASDI Trust Funds.

Alternatives

Limit of Benefits

H.R. 15630, introduced by Chairman Burke in the 94th Congress, would have limited the PIA in disability and survivor cases to the highest PIA payable to a worker who reached age 65 in the same month as the worker who became disabled or died. No similar proposal is contained in Mr. Burke's disability bill, H.R. 8076, introduced in the 94th Congress.

Under present law, such a proposal would alleviate the large dollar differences between PIA's in retirement and in disability and death cases at higher earnings levels. However, under H.R. 8218, these differences would be greatly reduced and the fact that the Administration's bill this year does not have a guarantee for such cases makes such a "cap" less necessary. In either case, such a limitation would not have any effect on the differences at lower earnings levels.

Explicit Limit on Earnings Replacement

The Health Insurance Association of America (representing private disability insurers) testified that disability benefits (including workmen's compensation) should never exceed 65 percent of gross earnings at the time of disability. This would constitute a fairly major deliberalization of existing law. In order to avoid benefit levels for families in early disability and death cases from being excessive in terms of prior earnings levels, a limit on the percentage of average indexed monthly earnings (AIME) replaced by the benefits could be established. For example, if a limit of, say, 80 percent of AIME was instituted, the benefits of workers with AIME of \$235 or less and the families of workers with AIME of \$910 or less would be reduced. The effect would be especially marked in early disability cases where wage indexing would also act to substantially reduce benefits. An alternative to this approach would be to have a limit which varied by AIME from, say, 100 percent at the lowest level to, say, 40 or 50 percent at the highest.¹¹ Other variations are possible depending upon how much benefit adequacy as opposed to work incentive one wishes to

Separate Formula

A separate computation could be provided for disability and survivors' benefits than is used for retirement benefits, or each of these programs could have its own formula.

¹¹ The HIAA stated that the formula should not exceed 30 percent for incomes in excess of \$15,000.

Base Year for Indexing Earnings

An insured worker's earnings would be indexed by average wage increases in covered employment through the second year before the worker retires (that is, becomes entitled to retirement benefits), becomes disabled, or dies.¹² The earnings in the year prior to retirement would be counted in the actual dollar amount. The year of retirement is the year a worker elects to receive benefits (whether or not he is actually paid a benefit for that year). Because earnings will be reported in the future on an annual (rather than a quarterly) basis, average wage figures will not be available in time to index the earnings to a later year. (The same provision was included in H.R. 14430.)

A major issue to be considered is whether earnings should be indexed to age 62 (the age of first eligibility) rather than to retirement (first entitlement). The use of retirement as the base year for indexing rewards workers who stay in the work force for the longest time because benefits would reflect the increase in average wages that occur after age 62. The following table¹³ compares PIA's under retirement indexing to age 62 indexing for a worker with average earnings each year retiring at different ages in the future.

TABLE 14

	Age at retirement in January	PIA's: Index to—		Difference
		Retirement	Age 62	
Year of retirement:				
1979.....	62	\$392. 30	\$392. 30	0
1980.....	63	424. 40	414. 90	\$9. 50
1981.....	64	457. 20	439. 10	18. 10
1982.....	65	489. 70	462. 30	27. 40
1983.....	66	521. 10	486. 90	34. 20
1984.....	67	552. 90	513. 50	39. 40
1985.....	68	584. 70	543. 40	41. 30
1986.....	69	618. 10	576. 00	42. 10
1987.....	70	652. 60	612. 60	40. 00
1988.....	71	688. 80	652. 50	36. 30
1989.....	72	729. 70	696. 60	33. 10

When retirement occurs after age 62, indexing to retirement produces higher benefits than indexing to age 62 because (under current assumptions that wages increase faster than prices) benefits for workers of the same age retiring in successive years whose earnings are indexed to retirement would increase at least as fast as wages while their benefits, if indexed to age 62, would increase no faster than prices.

Alternative

Age 62.—Earnings could be indexed up to the second year preceding age 62 rather than retirement.

This alternative provides less incentive for a worker to remain in the work force since, all other things being equal, the worker who retires at age 62 and the worker who retires 3 years later at age 65 will receive benefits based on approximately the same PIA. If it is believed necessary to provide additional work incentives under age-62 indexing consideration could be given to increasing the delayed retirement credit.

Indexing earnings to age 62 in all cases, as under this option, would seem to give official sanction to a lower retirement age. On the other hand, the argument that indexing to the date of retirement would reward individuals who work longer fails to take into account that many people normally go back and forth

¹² Since the retirement test does not apply after age 72, there is no program-related reason for insured workers to delay filing beyond age 72, and virtually no beneficiaries start getting benefits after age 72. A technical change should be made in the bill so that earnings would not be indexed to a year after the year a worker reaches age 70 (the second year prior to the year he becomes age 72).

¹³ Based on intermediate set of economic assumptions used in the 1977 Annual Report of the Board of Trustees of the Federal OASDI Trust Funds.

between employment and retirement. These individuals would receive lower benefits permanently than they would if they had been well-informed and not applied for benefits.

If the CPI is rising faster than average wages, the worker would be better off, in general, the earlier the point to which his earnings are indexed. In this situation, indexing to age 62 would be to the worker's advantage, while under indexing to retirement the worker would be better off to elect benefits at an earlier date—that is, there would be an incentive to retire early.

This alternative has some significant advantages in the areas of administration and public relations. Since the indexing point is based solely on date of birth rather than on the year retirement benefits are elected, this alternative would relieve the worker of the burden of having to decide the most advantageous time for him to elect benefits, a decision which would affect the benefits he and his family would receive from then on. In addition, there would be less pressure on SSA field personnel to make certain that the worker understood the significance of his choice of when to elect benefits and to provide him the information necessary to be able to make the choice.

Since age-62 indexing is less complex from an administrative standpoint, administrative costs would be lower than if earnings were indexed to retirement.

Treatment of Earnings after Retirement or Disability Under Decoupling

Under the Administration proposal, earnings subsequent to the year of retirement—that is, entitlement to retirement benefits—or onset of disability would be counted at actual dollar value (i.e., unindexed) and substituted for earlier years of indexed earnings if they would increase a worker's AIME and his PIA. The recomputation provisions are similar to those under present law. However, since past earnings would be higher after wage indexing than under present law, earnings after retirement would, on the average, have substantially less effect in increasing benefit amounts than under present law. (This approach is similar to that in H.R. 14430 and in other current decoupling proposals.)

Alternative

Reindex earnings after retirement or disability.—Under this alternative, for each year a worker had earnings after he became entitled to benefits, his earlier earnings would be reindexed to take account of the year of additional earnings. Thus, a worker who had earnings after retirement or disability would be assured that his PIA would increase from year to year as fast as the increase in average wages.

Reindexing all of a worker's earnings whenever he had 1 additional year of earnings would be a very significant administrative complication. After a worker's earnings were reindexed, a new benefit computation would have to be done and the resulting PIA (without cost-of-living increases) would have to be compared to the previous PIA (with cost-of-living increases) to see which is higher. This operation would have to be done every year a worker had earnings after initially becoming entitled to benefits. In 1976 3.3 million (about 20 percent) of retired-worker beneficiaries over age 65 had earnings.

Reindexing would also raise a question of equity as between retired workers with very low covered earnings in a year and those with none. If a worker's PIA were increased by the increase in average wages due to reindexing even if he had very low earnings in a year, such a worker would be very substantially better off than the person with no earnings. A provision for an earnings threshold to qualify for reindexing would eliminate that particular equity problem but the threshold would be necessarily arbitrary and therefore the provision would create other equity problems. Also, reindexing would add substantially to program costs. On the other hand, in a decoupled system based on retirement indexing (such as H.R. 8218), reindexing would increase equities between workers with similar wage records retiring in successive years. But reindexing would reduce the incentives for later retirement that retirement indexing is specifically designed to provide. (Of course, this question would not arise under a system based on age-62 indexing.)

Treatment of Earnings After Age 62 or Disability for Workers Age 62 or Disabled Before 1983

Workers age 62 or disabled before 1979

For workers age 62 or disabled before 1979, the present computation and recomputation procedures would apply. Such workers could not qualify for wage indexing. (H.R. 14430, last year's administration bill, provided that such workers would have their benefits computed under present law but without the use of earnings after the effective date, and that they could qualify for wage indexing under certain conditions if they had earnings after such date.)

Workers age 62 from 1979 through 1983

For those age 62 during the transitional period, present-law computation procedures would apply as a guaranteed alternative to the wage-indexing system. (The benefit table would be frozen at January 1979 levels and only, adjusted for cost-of-living increases after a person reaches age 62.) However, earnings after age 61 could only be used in a wage-indexing computation. If the wage-indexed benefit did not exceed the guarantee benefit, the latter would be paid. Earnings in subsequent years would be used in wage-indexing recomputations until the wage-indexing benefit exceeded the guarantee benefit; thereafter the wage-indexing benefit would be paid. (H.R. 14430 contained the same provision. However, the transition was 10 years and applied to disability cases as well as to retirement cases.)

Alternative

For workers age 62 (or disabled) before 1979, permit earnings after 1979 to be used only in a wage-indexing recomputation.—This alternative—contained in H.R. 14430—would make it possible for people age 62 or disabled before 1979 to qualify for wage indexing if they had earnings after 1978. However, some people would qualify for wage indexing under this alternative based on relatively low additional earnings and get a substantial increase in their benefits because of the effect of indexing wages. Of course, since such earnings could not be used for a present-law recomputation, this alternative would be a considerable deliberalization for others.

Treatment of Earnings Before 1951

Under present law, PIA's are determined based on average earnings after 1936, 1950, or age 21, if later (and up to the year of age 62, disability, or death) whichever results in the higher PIA. Special rules apply where pre-1951 earnings are involved in the computation of benefits, and these rules would be retained under the Administration proposal.¹⁴ Thus, pre-1951 earnings would not be indexed since machine records do not include yearly breakdowns of earnings for the period 1937-50. Indexing individual years of earnings before 1951 could only be done on a manual basis, an operation which is not administratively feasible. People age 62 after 1978 who are eligible for a computation using pre-1951 earnings would have their benefits figured under present law using a 1979 benefit table with CPI increases after age 62, death, or disability. However, earnings after age 62 or disability would not be used in the old-start computation. For all practical purposes, the use of pre-1951 earnings in benefit computations would wash out in 1991—when a worker age 22 in 1951 reached age 62. The old-start computation is currently used for about 10 percent of new retired worker beneficiaries.

That is the same as provision in H.R. 14430, last year's Administration bill, except that the "empirical" method would be extended under the Administration bill to cases involving workers age 21 after 1937; the extension has

¹⁴ As under present law, the simplified "empirical" method of allocating total earnings prior to 1951 to individual years prior to 1951 would continue to be used. Because earnings in the period 1937-50 are not kept on machine records, the empirical method was devised to simplify the computation of benefits for workers who had earnings before 1951 by eliminating the time-consuming manual computations that would otherwise have to be done. In general, under the empirical method, total earnings in the period from 1937 up to 1951 are allocated equally to each of the years prior to 1951 that are used to determine the worker's average earnings on which his benefit is based.

also been proposed under present law. Also, the treatment of pre-1951 earnings under H.R. 4870 (Whalen) would be the same as under H.R. 14430. Under the Myers approach, pre-1951 earnings also would not be indexed. The Hsiao panel made no recommendations for treatment of pre-1951 earnings after the transitional period. (During the transition the present law computation applicable in the case of pre-1951 earnings would be used to figure the present law portion of the benefit.)

Alternative

Develop an empirical method of indexing pre-1951 earnings.—Although it is not administratively feasible to index earnings for the period 1937–50, a simplified approximation of indexed earnings for this period could be used. Under such an approach, total earnings for 1937–50 which are contained in SSA machine records would be allocated equally to each of the years in the period and then indexed. However, indexing earnings that have been arbitrarily allocated and bear no relationship to the worker's actual year-by-year earnings would not accomplish the purpose of indexing, which is to bring each year's earnings up to date with current wage levels. Also, such an approach would involve considerable administrative complexity.

Effective Date

The Administration's wage-indexing proposal would be effective for monthly benefits payable beginning with January 1979. Since the system would operate on a calendar-year basis—for example, earnings would be indexed and the benefit formula would be adjusted annually—a January effective date seems desirable.

Alternative

All the major decoupling proposals use a January effective date. Obviously, decoupling represents a major restructuring of the social security program requiring very substantial changes in the mechanism for determining social security benefit amounts. In order to assure smooth implementation of the decoupled system, it might be necessary to allow some 18 months or more lead time after enactment. If the effective date of H.R. 8218 were delayed 1 year, the long-range savings would be reduced by 0.03 percent of taxable payroll.

Conforming Amendments Under Administration Bill

1. *Family maximum* (section 203 of the bill and section 203(a) of the Social Security Act):

(a) *In special minimum benefit cases*, where the worker becomes eligible for the special minimum or dies after December 1978, the family maximum benefit would be figured using the family maximum formula under wage indexing. (Under H.R. 14430 this change would have been effective with respect to all special minimum family maximums determined after the effective date of decoupling.)

(b) *Where an individual is entitled on the basis of more than one PIA*, and one or more of those PIA's is based on wage indexing, the family maximum benefits on each PIA would be combined up to 1.75 times the highest wage-indexed PIA. (Under present law the limit in such cases is the highest family maximum benefit appearing in the benefit table, which is 1.75 times the highest PIA.)

2. *Other conforming amendments* (section 204 of the bill):

(a) *Sole survivors*. Section 202(m) of the Social Security Act is amended to assure that under the new system, as under present law, the minimum unreduced sole survivor's benefit will be equal to the minimum PIA.

(b) *Insured status for certain veterans*. Section 217(b) of the act is amended to retain present special insured status provisions for certain World War II veterans.

(c) *Use of AME for figuring the workmen's compensation offset.* Section 224(e) of the act is amended to provide that AME, rather than AIME, will continue to be used in determining average current earnings for purposes of the workmen's compensation offset. Use of AIME could result in increasing benefits payable under the offset provision.

(d) *Filing for medicare only.* Section 226(a) of the act is amended to permit a worker who plans to continue working to establish entitlement to medicare at age 65 without having the wage-indexing point for purposes of figuring his PIA (and hence the amount of his PIA) determined by the date he elected medicare. (Under present law, a worker must become entitled to cash benefits to qualify for medicare.)

(e) *Revise the method of adjusting the SMI premium.* Section 1839(c) of the act is amended so that the SMI premium will be increased each year by no more than the same percentage as benefits for people on the rolls are automatically increased. This change is necessary since the premium adjustment is now tied to increases in the benefit table, which would have limited applicability as of January 1979 under the decoupling proposal, and would eventually wash out.

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SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

BRIEF SUMMARY OF TESTIMONY PRESENTED TO THE SUB-
COMMITTEE ON SOCIAL SECURITY DURING PUBLIC HEARINGS
HELD JULY 18-22 AND JULY 26-27, 1977, ON H.R. 8218, THE "SO-
CIAL SECURITY FINANCING, BENEFIT INDEXING AND EQUAL
RIGHT'S AMENDMENTS OF 1977," AND OTHER SOCIAL SECURITY
ISSUES



SEPTEMBER 8, 1977

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FOREWORD

The following is a summary of positions, recommendations, and rationales presented to the Subcommittee on Social Security during public hearings July 18-22 and July 26-27, 1977. Material used in the preparation of this summary was the written testimony presented by witnesses or submitted for the record. In only a few cases, oral testimony was used.

In many cases testimony was paraphrased in order to fit individuals or groups into organized categories. The citation of a group under a particular rationale or recommendation would indicate that the testimony presented generally supports the stated idea.

While every attempt was made to include an accurate and complete summary of all testimony presented, it is possible that an inadvertent error of interpretation or exclusion may have occurred.

The Subcommittee on Social Security wishes to acknowledge and thank Mrs. Lucia Swanson, a management intern from the Social Security Administration who has been temporarily assigned to the subcommittee, for her fine assistance and work in preparing this summary.

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I. General Revenue Financing

A. Supports the general concept of general revenue financing for the social security system (OASDI).

American Federation of Labor and Congress of Industrial Organizations; Rep. Johnathan B. Bingham; Robert M. Ball; Rep. William M. Brodhead; Wilbur J. Cohen; Community Service Society of New York; Eugene R. Greamore; Rep. Mark W. Hannaford; National Council on the Aging, Inc.; National Council of Senior Citizens; National Retired Teachers Association; American Association of Retired Persons; National Senior Citizens Law Center; New Jersey Division of Pensions; Rep. Richard L. Ottinger; Rep. Claude Pepper; Rep. Fred B. Rooney; Seniors for Adequate Social Security; United Auto Workers; Rep. Lester L. Wolff; Prof. Richard Zeckhauser.

Specific comments

1. The social adequacy function of social security has benefited the entire society, so income other than wages and salaries should support the system.

Robert M. Ball; Rep. Brodhead; Community Service Society of New York; Rep. Hannaford; National Council on the Aging, Inc.; National Council of Senior Citizens; National Senior Citizens Law Center; New Jersey Division of Pensions.

2. Use of revenues from income taxes will move social security financing toward a more progressive financing mechanism.

American Federation of Labor and Congress of Industrial Organizations; Rep. Ottinger; Rep. Rooney; United Auto Workers; Prof. Zeckhauser.

3. General revenues are used by most industrialized countries to finance part of their social insurance systems.

American Federation of Labor and Congress of Industrial Organizations; National Council of Senior Citizens; Rep. Ottinger; Rep. Pepper; United Auto Workers.

4. The history of general revenue options recommended by past Advisory Councils and the existence of the Murray-Vandenburg Amendment 1944-1950, which authorized general revenue appropriations if needed, support use of general revenues today.

American Federation of Labor and Congress of Industrial Organizations; Rep. Bingham; Wilbur J. Cohen; Rep. Rooney; United Auto Workers.

5. Precedents for the use of general revenues exist in the current social security system—benefit payments to persons over age 72, part B of medicare, wage credits for Japanese-American citizens, noncontributory military wage credits.

American Federation of Labor and Congress of Industrial Organizations; Rep. Pepper; United Auto Workers.

6. Some general revenue financing may be used without eroding the earned-right principle of social security.

Wilbur J. Cohen; National Council of Senior Citizens.

7. Use would avoid an increase in payroll taxes which would deepen the recession.

United Auto Workers.

8. As long as eligibility remains the same, use of general revenues does not introduce a welfare component.

United Auto Workers.

9. As long as most of the funds come from employer-employee contributions, there is no serious danger of "runaway" benefit increases.

National Council on the Aging, Inc.

10. Use will offset the effect of fewer workers supporting more retirees in the future.

Rep. Wolff.

11. The use of general revenues will underscore the Congress' determination to meet future obligations of the social security system.

Rep. Ottinger.

B. Supports the general revenue financing provision in H.R. 8218.

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; Rep. Bingham; Wilbur J. Cohen; Rep. Robert F. Drinan; Rep. William S. Moorhead; Mountain Plains Congress of Senior Organizations; National Council on the Aging, Inc.; National Council of Senior Citizens; National Retired Teachers Association/American Association of Retired Persons; National Senior Citizens Law Center; Rep. Ottinger; Rep. Pepper; Rep. Rooney; Seniors for Adequate Social Security; United Auto Workers; Rep. Wolff.

Specific comments

1. The proposal is a modest and limited use of general revenues.

National Council of Senior Citizens; National Senior Citizens Law Center; Rep. Ottinger; Rep. Pepper; Seniors for Adequate Social Security; United Auto Workers.

2. Allows for lower reserve levels in the trust funds, therefore permitting a lower payroll tax rate than might otherwise be required.

Robert M. Ball; Rep. Bingham; Wilbur J. Cohen.

3. Essentially a bookkeeping transaction with no effect on the unified budget and, unless there is another period of recession, the revenues will not be spent.

Robert M. Ball; Wilbur J. Cohen; Rep. Moorhead, United Auto Workers.

4. Restores public confidence in the system.

Rep. Rooney; Rep. Wolff.

5. Will stabilize the system and assist in financial planning.

National Retired Teachers Association/American Association of Retired Persons; Rep. Rooney.

6. The proposal might be varied by lowering the unemployment trigger of 6 percent and/or extending the proposal beyond 1982.

Rep. Bingham; Wilbur J. Cohen.

7. Does not call for a broad-based infusion of general revenues.

Robert M. Ball; United Auto Workers.

8. Use of general revenues is related to a specific formula and is not to be used just to make up for a lack of financing of new benefits.

Robert M. Ball.

C. Other general revenue financing proposals:

1. Finance part of the social security system from general revenues, retaining payroll tax.

a. Finance up to one-third of the program from general revenues. (A rationale frequently given by proponents of this suggestion is that the portion of "accrued liability" due the trust funds from the general fund is approximately one-third of expenditures.)

Rep. Bingham; Rep. Brodhead; Wilbur J. Cohen; Community Service Society of New York; Eugene R. Greemore; National Council on the Aging, Inc.; Rep. Ottinger; Seniors for Adequate Social Security.

b. Use general revenues to replace other revenue losses to the social security system, as per the Vandenberg Amendment (new revenue losses will be identified).

Robert M. Ball; Wilbur J. Cohen.

c. Use general revenues to pay for costs of CPI benefit increases to the extent that they exceed a long-range average price increase.

Wilbur J. Cohen; National Retired Teachers Association/American Association of Retired Persons.

d. Pay the difference between the actuarial value of the contribution of those receiving the minimum benefit and the actual value of the minimum benefit received.

Wilbur J. Cohen.

e. Pay for 50 percent of part A of medicare from general revenues and transfer 50 percent of HI tax rate to OASDI.

Wilbur J. Cohen.

f. Fund entire medicare costs from general revenues and divert payroll tax revenues to OASDI.

Senator Richard Stone.

g. Use general revenues to fund the amount saved by not having to pay SSI to the aged.

Wilbur J. Cohen.

h. Fund specific benefits from general revenues (student benefits, nonretirement benefits, etc.)

American Home Economic Association; American Retail Federation; American Society for Personnel Administration; Wilbur J. Cohen; Council of State Chambers of Commerce; Prof. Zeckhauser.

2. Pay for costs of administering program from the general fund.

American Retail Federation; Council of State Chambers of Commerce.

3. Permanent and/or substantial sums should be supplied from general revenues to support the social security system.

National Council on the Aging, Inc.; National Council of Senior Citizens; National Senior Citizens Law Center; Rep. Ottinger; Seniors for Adequate Social Security; United Auto Workers.

4. Assure a repayable loan to social security from the general revenues.

Wilbur J. Cohen; Machinery and Allied Products Institute; Robert J. Myers.

5. General revenue financing should take the form of an earmarked surcharge on the Federal personal income tax.

Community Service Society of New York.

6. Finance the entire social security system from general revenues and abolish the payroll tax.

New Jersey Division of Pensions.

7. Remove all "social insurances" from social security and fund them through general revenues.

Citizens Against Confiscatory Taxes in the United States.

D. Opposed to the concept of general revenue financing of the social security system (OASDI).

Alliance of American Insurers; American Iron and Steel Institute; American Retail Federation; American Society of Personnel Administration; Chamber of Commerce of the United States; Benjamin F. Feldman; Financial Executives Institute; National Association of Manufacturers; Machinery and Allied Products Institute; Rep. Robert McClory; Rep. Ronald M. Mottl; Robert J. Myers; New York Chamber of Commerce and Industry; Louise Simon; Council of State Chambers of Commerce; Teachers Insurance and Annuity Association/College Retirement Equities Fund.

Specific comments

1. Undermines the basic principle of earned rights.

Air Transport Association of America; American Iron and Steel Institute; American Society for Personnel Administration; Chamber of Commerce of the United States; Financial Executives Institute; Machinery and Allied Products Institute; National Association of Manufacturers; Teachers Insurance and Annuity Association/College Retirement Equities Fund.

2. The public will be unaware of the true costs of the program.

Alliance of American Insurers; Robert F. Link, Robert J. Myers; National Association of Life Underwriters; Council of State Chambers of Commerce.

3. Will result in considerable pressure on Congress to liberalize benefits without providing specific funding.

Alliance of American Insurers; Financial Executives Institute; Robert F. Link; Robert J. Myers; National Association of Life Underwriters.

4. The system would be subject to uncertainties of annual appropriations and competition with other programs for funds.

American Society for Personnel Administration; Machinery and Allied Products Institute.

5. Income taxes would have to be increased, resulting in inflation.

Air Transport Association of America; American Iron and Steel Institute; Chamber of Commerce of the United States; Benjamin F. Feldman; Financial Executives Institute; Machinery and Allied Products Institute; National Association of Manufacturers; New York Chamber of Commerce and Industry; Council of State Chambers of Commerce.

6. Because no general revenues are available, would increase the national debt and add to the difficulty of balancing the budget.

Air Transport Association of America; Alliance of American Insurers; American Iron and Steel Institute; Chamber of Commerce of the United States; Financial Executives Institute; Rep. Mottl; National Association of Life Underwriters; National Association of Manufacturers; New York Chamber of Commerce and Industry; Small Business Legislative Council.

7. Destroys the financial integrity of a self-supporting system which will result in the loss of public confidence in the system.

National Association of Manufacturers; New York Chamber of Commerce and Industry; Council of State Chambers of Commerce.

8. Use of general revenues might change social security into a welfare system.

New York Chamber of Commerce and Industry.

9. May result in the introduction of a means test as a condition of benefits.

American Iron and Steel Institute; Chambers of Commerce of the United States; Machinery and Allied Products Institute; National Association of Life Underwriters.

10. Rather than use general revenues to support social security, use them to increase productivity which would generate more revenues and to reduce inflation which would lower outlays.

Rep. McClory.

11. Social security is an insurance program and should pay benefits from contributions.

American Retail Federation; National League of Cities.

E. Opposed to the general revenue financing provision in H.R. 8218.

Air Transport Association of America; Alliance of American Insurers; Health Insurance Association of America; Robert J. Myers; National Association of Manufacturers; National League of Cities; New York Chamber of Commerce and Industry; Small Business Legislative Council; Council of State Chambers of Commerce.

Specific comments

1. Linking general revenue financing to periods of high unemployment is unwise because at times of recession there is reduced income to the Treasury coupled with a need of revenues for other purposes.

Alliance of American Insurers; National Association of Manufacturers; Small Business Legislative Council; Council of State Chambers of Commerce.

2. Okun's law, the basis for the general revenue provision in H.R. 8218, is not applicable within the context of that proposal.

Robert J. Myers; New York Chamber of Commerce and Industry.

3. Introduction of general revenue financing will not be temporary.

Alliance of American Insurers; National Association of Manufacturers; New York Chamber of Commerce and Industry.

4. Causes specific problems for the railroad retirement system because tier II money will be transferred to SSA as part of the general fund transfer if language of H.R. 8218, section 102, remains as drafted.

Association of American Railroads/National Railway Labor Conference.

II. Taxable Wage Base of Employer

A. Supports the provision in H.R. 8218 which would gradually eliminate the ceiling on the employer social security tax.

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; Wilbur J. Cohen; Rep. Horton; Mountain Plains Congress of Senior Organizations; National Council on the Aging, Inc.; National Council of Senior Citizens; National Retired Teachers Association; American Association of Retired Persons; Rep. Pepper; Rep. Rooney; Seniors for Adequate Social Security; United Auto Workers; Prof. Zeckhauser.

Specific comments

1. Exact equality of contributions is not necessary; many foreign social insurance systems have unequal financing between employees and employers.

Robert M. Ball; National Council on the Aging, Inc.; National Council of Senior Citizens; United Auto Workers.

2. The relationship remains close to equal—50 percent for employers, 45 percent for employees.

Robert M. Ball; United Auto Workers.

3. Employer contribution is deductible as a business cost, but the employee contribution is not.

American Federation of Labor and Congress of Industrial Organizations; Wilbur J. Cohen; National Council on the Aging, Inc.; United Auto Workers.

4. Taxing entire payroll recognizes the responsibility of employers to provide adequately for retirement income.

American Federation of Labor and Congress of Industrial Organizations; United Auto Workers.

5. Employers' contribution is for the support of the system as a whole and is not credited to an individual employee

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; National Council on the Aging, Inc.; United Auto Workers.

6. Reduces regressivity of the financing mechanism.

National Council of Senior Citizens; Rep. Pepper; Seniors for Adequate Social Security; Prof. Zeckhauser.

7. Under this proposal the overall cost to the business community would be less than that under a traditional approach which would raise the taxable base and tax rate at the same time.

American Federation of Labor and Congress of Industrial Organizations; National Council on the Aging, Inc.; National Council of Senior Citizens; National Retired Teachers Association; American Association of Retired Persons; Rep. Pepper; Rep. Rooney; United Auto Workers.

8. There is no evidence that higher wages are heavily concentrated in certain sectors.

National Council of Senior Citizens.

9. Proposed taxation of entire payroll produces additional revenues without increasing the benefit liabilities of the social security system.

Robert M. Ball; National Council of Senior Citizens; National Retired Teachers Association/American Association of Retired Persons; Rep. Rooney.

10. Increases revenue to the system in an equitable manner.

National Retired Teachers Association/American Association of Retired Persons; Rep. Rooney.

11. Since the proposed increase in the taxable wage base for employers is done gradually, it will not impair economic recovery in 1977-78.

Rep. Horton.

B. Opposed to the provision in H.R. 8218 which would gradually eliminate the ceiling on the employer social security tax.

Alliance of American Insurers; Air Transport Association of America; Association of American Railroads/National Railway Labor Conference; American Iron and Steel Institute; American Retail Federation; American Society of Personnel Administration; Chamber of Commerce of the United States; Community Service Society of New York; Financial Executives Institute; Eugene R. Greenore; Health Insurance Association of America; Robert F. Link; Machinery and Allied Products Institute; Rep. Moorhead; Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; National Federation of Independent Business; National Council of Salesmen's Organizations; New Jersey Division of Pensions; New York Chamber of Commerce and Industry; Small Business Legislative Council; Teachers Insurance and Annuity Association/College Retirement Equities Fund; Council of State Chamber of Commerce.

Specific comments

1. Equal contributions from employees and employers is an essential principle of the social security program.

Air Transport Association of America; Alliance of American Insurers; American Retail Federation; American Society of Personnel Administration; Chamber of Commerce of the United States; Financial Executives Institute; Rep. Moorhead; Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; New York Chamber of Commerce and Industry; Small Business Legislative Council; Council of State Chambers of Commerce; Teachers Insurance and Annuity Association/College Retirement Equities Fund.

2. Cost-benefit relationship is no longer apparent to employees, as contributory nature of the system is weakened.

Community Service Society of New York; Robert F. Link; Council of State Chambers of Commerce.

3. Represents a move toward financing on an ability to pay basis and is a move away from the desirable goal of strict equity.

Machinery and Allied Products Institute.

4. The burden will be inequitable, affecting small businesses, labor-intensive, highly-technical and service industries, non-profit organizations, independent contractors, and state and local governments most heavily.

Air Transport Association of America; Machinery and Allied Products Institute; National Association of Manufacturers; National Council of Salesmen's Organizations; National Federation of Independent Business; New Jersey Division of Pensions; New York Chamber of Commerce and Industry; Council of State Chambers of Commerce; Teachers Insurance and Annuity Association/College Retirement Equities Fund.

5. It is unfair for certain industries to pay increased taxes without a corresponding increase in benefits for employees.

American Iron and Steel Institute; American Retail Federation; Chamber of Commerce of the United States; Council of State Chambers of Commerce.

6. Increased costs to employers would be passed on to workers in the form of lower wages or fewer benefits or to the consumer in the form of higher prices.

American Society of Personnel Administration; Community Service Society of New York; Financial Executives Institute; Robert F. Link; Machinery and Allied Products Institute; Rep. Moorhead; Robert J. Myers; New York Chamber of Commerce and Industry; Small Business Legislative Council; Council of State Chambers of Commerce.

7. Will discourage capital enterprise and investment and hinder the growth of private pension plans.

Air Transport Association of America; Community Service Society of New York; Financial Executives Institute; National Association of Life Underwriters; National Association of Manufacturers; New Jersey Division of Pensions; New York Chamber of Commerce and Industry; Council of State Chambers of Commerce.

8. State and local governments will pass on increased costs through higher taxes and fewer public services.

American Retail Federation; Community Service Society of New York; National League of Cities.

9. Could cause more state and local governments to "opt out" of the social security system.

Chamber of Commerce of the United States; Financial Executives Institute; National League of Cities; New York Chamber of Commerce and Industry; Small Business Legislative Council.

10. There will be inconsistent treatment between the self-employed and individuals who have incorporated.

Robert J. Myers.

11. As drafted, H.R. 8218 would apply to both the social security portion and private pension portion of the railroad retirement system, removing the employer cap on both and causing greatly increased costs for the railroads.

Association of American Railroads/National Railway Labor Conference.

12. A longer transition period to taxing entire payroll may be needed to give business time to plan for increased taxes.

Wilbur J. Cohen.

13. Increase may cause local governments to "opt out," so a measure requiring maintenance of coverage should be included.

American Federation of Labor and Congress of Industrial Organizations.

14. Increase taxable wage base for both employees and employers equally—

a. Until 90 percent of covered wages are taxed.

American Society of Personnel Administration.

b. Apply provision in H.R. 8218 for an increase in the employee wage base to the employer as well.

American Retail Federation.

c. Raise base to \$30,000 by 1980.

Rep. Berkely W. Bedell; Rep. Charles W. Whalen, Jr.

III. Taxable Wage Base of Employee

A. Supports the provision in H.R. 8218 which would increase the taxable wage base for employees to \$30,300 by 1985.

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; Wilbur J. Cohen; Rep. Hannaford; Mountain Plains Congress of Senior Organizations; National Council on the Aging, Inc.; National Council of Senior Citizens; National Retired Teachers Association; American Association of Retired Persons; Rep. Ottinger; Rep. Pepper; Rep. Rooney.

Specific comments

1. Increasing the taxable wage base for employees makes tax less regressive.

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; National Council on the Aging, Inc.; Rep. Ottinger; Rep. Pepper; United Auto Workers; Prof. Zeckhauser.

2. An increase in the wage base improves protection for those who pay more but who have low ratios of return.

Robert M. Ball; National Council on the Aging, Inc.; United Auto Workers.

3. Increase is low enough and gradual enough to avoid large increases in benefits for higher paid employees and not affect the role of private insurance, savings and pensions.

Robert M. Ball.

4. Increases revenues to the system.

American Federation of Labor and Congress of Industrial Organizations; National Council on the Aging, Inc.; National Retired Teachers Association/American Association of Retired Persons.

5. A greater proportion of covered wages would be subject to tax.

American Federation of Labor and Congress of Industrial Organizations.

B. Opposes provision in H.R. 8218 which would increase the taxable wage base for employees to \$30,300 by 1985.

Air Transport Association of America; American Iron and Steel Institute; Chamber of Commerce of the United States; Health Insurance Association of America; Robert F. Link; Machinery and Allied Products Institute; Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; New York Chamber of Commerce and Industry; Small Business Legislative Council.

Specific comments

1. Taxable wage base defines the scope of the social security program and the role of the private sector, and an increase will narrow the responsibility of the private sector in the economic security field.

Machinery and Allied Products Institute; Robert J. Myers.

2. Increasing the employee and self-employed base does not provide any significant additional financing over the long range due to benefit increases.

American Iron and Steel Institute; Robert F. Link; Machinery and Allied Products Institute; Robert J. Myers; National Association of Manufacturers; New York Chamber of Commerce and Industry; Small Business Legislative Council.

3. There will be less money available for private savings and investment.

American Iron and Steel Institute; Chamber of Commerce of the United States; Machinery and Allied Products Institute; National Association of Life Underwriters; National Association of Manufacturers; New York Chamber of Commerce and Industry.

4. Expansion of wage base was never meant as a revenue-raising mechanism, but as a delimitation of the extent of benefits within the system.

National Association of Life Underwriters.

C. Other proposals regarding the taxable wage base.

1. Increase the taxable wage base by \$900 in 1979, 1981, 1983, and 1985 over and above present law.

Wilbur J. Cohen

2. Increase taxable wage base to—

a. \$30,000 by 1982.

Wilbur J. Cohen

b. \$24,000 by 1978.

National Council on the Aging, Inc.

3. Begin to tax after the first \$2,000 to \$3,000 of income, and continue up to \$18,000 to \$20,000.

Mountain Plains Congress of Senior Organizations.

4. Allow for different taxable wage bases based on marital status, and tax married couples on their combined earnings.

Mr. and Mrs. Robert Reilly.

5. Increase taxable wage base for both employees and employers equally—

a. Until 90 percent of covered wages are taxed.

American Society of Personnel Administration.

b. Apply provision in H.R. 8218 for an increase in the employee wage base to the employer as well.

American Retail Federation.

c. Raise base to \$30,000 by 1980.

Rep. Berkely W. Bedell; Rep. Charles W. Whalen, Jr.

IV. Tax Rate

A. Supports the provision of H.R. 8218 which accelerates the present law OASDI tax rate increase to 1985 and 1990 instead of 2011.

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; Rep. Bingham; Wilbur J. Cohen; National Council of the Aging, Inc.; National Council of Senior Citizens; United Auto Workers.

Specific comments

1. Income will help maintain trust fund levels.

United Auto Workers.

2. Public confidence will be restored.

United Auto Workers.

3. Moving the rate forward is feasible because of the existence of the earned income tax credit.

Wilbur J. Cohen.

B. Opposes the provision of H.R. 8218 which accelerates the present law OASDI tax rate increase to 1985 and 1990 instead of 2011.

Rep. Ottinger; National Teachers Association/American Association of Retired Persons; New Jersey Division of Pensions.

Specific comments

1. Regressive because the increase falls on all wage earners.

Rep. Ottinger.

2. Any increase in the social security tax should be rejected because it is already at a level which makes it an economic disincentive for the economy; an increase would endanger private pension plans.

New Jersey Division of Pensions.

C. Other proposals for changing the OASDI employee-employer tax rate.

1. Increase the tax rate by 0.3 to 5.25 percent effective in 1978, with a probable additional increase of 0.2 percent necessary in the early 1980's.

American Iron and Steel Institute; Air Transport Association of America; American Society of Personnel Administration; Chamber of Commerce of the United States; National Association of Manufacturers; New York Chamber of Commerce and Industry; Council of State Chambers of Commerce.

2. Increase the tax rate by 0.5 to 5.45 percent effective in 1978.

Health Insurance Association of America; Machinery and Allied Products Institute; National Association of Life Underwriters.

3. Increase the tax rate by 0.5 to 5.45 percent effective in 1978 with an increase of 0.25 percent in the 1980's.

Robert J. Myers:

4. Increase the tax rate by 0.55 to 5.50 percent in 1980 and an additional increase of 0.2 percent in 1986.

Robert F. Link.

5. Increase tax rate by 0.1 percent in 3 successive years for employer and employee, each.

American Retail Federation.

6. Apply different rates based on marital status, dependents and the number of spouses employed within one family.

Mrs. Louise Simon.

7. Reduce the tax rate to no greater than 3 percent and apply to the total salary of employers and employees.

Citizens Against Confiscatory Taxes in the United States.

D. Supports the provision in H.R. 8218 which would increase the tax rate of the self-employed to equal 1½ times the tax rate of an employee.

American Federation of Labor and Congress of Industrial Organizations; American Iron and Steel Institute; American Society of Personnel Administration; Robert M. Ball; Chamber of Commerce of the United States; Wilbur J. Cohen; Health Insurance Association of America; Machinery and Allied Products Institute; Mountain Plains Congress of Senior Organizations; Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; National Council on the Aging, Inc.; National Retired Teachers Association/American Association of Retired Persons; New York Chamber of Commerce and Industry; Small Business Legislative Council; Council of State Chambers of Commerce.

Specific comments

1. Restores the tax rates to the relationship which existed from 1950-1972.

Robert M. Ball; Robert J. Myers.

2. Coverage for the self-employed under an employee contribution alone would disadvantage the social security system; combined employer-employee rates on the self-employed would be excessive.

Robert M. Ball.

E. Opposed to the provision in H.R. 8218 which would increase the tax rate on the self-employed to equal 1½ times the tax rate of an employee.

National Federation of Independent Business.

F. Other proposals regarding the tax rate on the self-employed.

1. Allow 50 percent of the self-employed tax to be deductible on the Federal income tax to offset the effect of the tax rate increase.

Wilbur J. Cohen; Council of State Chambers of Commerce.

2. Increase self-employed rate to 2 times that of an employee and allow 50 percent of it to be deducted as a business expense on the Federal personal income tax.

American Retail Federation.

G. Suggestions to relieve the social security tax burden of the low- and middle-income wage earner.

1. Increase and expand the earned income tax credit.

American Jewish Congress; Robert M. Ball, ; Wilbur J. Cohen.

2. A graduated payroll tax system will allow a higher rate of taxation while easing the burden on lower income wage earners.

National Association of Life Underwriters,

3. Provide an optional exemption from FICA taxes for those who elect to continue working after age 65

Rep. William L. Armstrong; Gordon C. Baker.

4. Incorporate a progressive element into the payroll tax.

Rep. Leon E. Panetta; Rep. Wolff.

5. Provide for rebates of 100 percent of FICA taxes for workers earning less than \$3,000 and scale downward to \$12,000.

American Jewish Congress.

6. Provide more income tax credits for low income workers.

United Auto Workers.

7. Make social security tax deductible from the personal income tax and forbid the states from taxing it.

American Home Economics Association.

H. Taxing of social security benefits.

1. Stop taxing that portion of gross income which is used to pay FICA tax and instead tax benefits when they are received.

Teachers Insurance and Annuity Association/College Retirement Equities Fund.

2. The part of the benefit received which was contributed by the employer was never taxed, so a tax on that part of the benefit received is appropriate.

American Society of Personnel Administration.

3. Opposed to taxation of social security benefits.

American Federation of Labor and Congress of Industrial Organizations.

I. Opposed to a value-added tax as a means of raising revenues for social security because the result would be higher prices and inflation.

Seniors for Adequate Social Security; Council of State Chambers of Commerce.

V. Decoupling

A. Supports the decoupling provision in H.R. 8218.

American Federation of Labor and Congress of Industrial Organizations; Alliance of American Insurers; American Society of Personnel Administration; Association of American Railways/National Railway Labor Conference; Robert M. Ball; Rep. Bingham; Wilbur J. Cohen; Community Service Society of New York; Mountain Plains Congress of Senior Organizations; National Council of the Aging, Inc.; National Council of Senior Citizens; National Retired Teachers Association; American Association of Retired Persons; New Jersey Division of Pensions; Rep. Ottinger; Rep. Pepper; Rep. Rooney; United Auto Workers.

Specific comments

1. Benefits should be wage-indexed to provide for a steady replacement rate over time.

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; National Council on the Aging, Inc.; Rep. Pepper.

2. Replacement rates:

- a. Replacement rates should be stabilized at their current levels.

American Society of Personnel Administration; Robert M. Ball; Rep. Bingham; Wilbur J. Cohen; Community Service Society of New York; Rep. Pepper; United Auto Workers.

- b. Stable replacement rates are desirable aside from financing considerations (consistency and predictability would simplify retirement planning).

American Society of Personnel Administration; Robert M. Ball; National Council on the Aging, Inc.

- c. Current replacement rates are not excessive.

Robert M. Ball.

- d. In the past, an increase in replacement rates has carried an assumption of a commitment to maintain them in the future.

Robert M. Ball.

- e. Once replacement rates are stabilized, they should be changed only by deliberate congressional action.

Community Service Society of New York.

- f. Replacement rates should be established as a function of deliberate policy and not by accident.

National Council of Senior Citizens.

- g. Present replacement rates are inadequate.

National Retired Teachers Association/American Association of Retired Persons.

3. Transition should be at least 10 years and the guarantee extended to survivors and disabled as well as retirees.

American Federation of Labor and Congress of Industrial Organizations; United Auto Workers.

4. The benefit formula should not be weighted and should have a closer relationship to contributions.

National Retired Teachers Association/American Association of Retired Persons.

- B. Proposes to decouple the social security benefit formula using wage-indexing and resulting in replacement rates equal to those of 1972 or earlier (approximately 10 percent lower than current rates), and providing for a permanent transition guarantee.

American Iron and Steel Institute; Chamber of Commerce of the United States; Robert F. Link, Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers.

Specific comments

1. Wage-indexing should be used because it stabilizes replacement rates.

American Iron and Steel Institute; Chamber of Commerce of the United States; Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; New York Chamber of Commerce and Industry.

2. Replacement rates.

- a. Present replacement rates are due to an overextended benefit level and a lag in instituting the decoupling procedure.

Robert J. Myers.

b. Stable replacement rates at a level slightly lower than present would help in planning pensions and private savings and encourage the creation of new pension plans.

National Association of Life Underwriters.

3. A transition guarantee should not be extended to survivors or disabled because the current situation of extremely high benefits for those beneficiaries would be continued.

Robert J. Myers.

C. Price-indexing.

1. Use price-indexing as recommended by the Advisory Panel on Social Security (Hsiao panel).

Representative John H. Rousselot, Teachers Insurance and Annuity Association/College Retirement Equities Fund.

2. Opposed to price-indexing since future workers would not share in an improved standard of living which they helped to create.

American Federation of Labor and Congress of Industrial Organization.

3. Price-indexing would encourage ad hoc increases without showing the true cost to the system; it represents a major deliberalization.

Robert M. Ball; National Council on the Aging, Inc.; New York Chamber of Commerce and Industry.

4. Price-indexing benefits is likely to result in increased numbers of the elderly living in poverty.

National Retired Teachers Association/American Association of Retired Persons.

D. Other decoupling proposals

1. Index using wages with replacement rates as compromise between 1972 levels and current levels.

Machinery and Allied Products Institute.

2. Wage records should be adjusted so that an individual's benefits will not have been lost through inflation.

Small Business Legislative Council.

3. Provide a 60-percent replacement rate on the first \$6,000 of average covered earnings with a declining rate thereafter.

American Home Economics Association.

4. Decouple by using a three-step progressive formula based on the average of wages earned in any "high 10" years.

Rep. Bedell; Rep. Whalen.

5. Decouple in such a way as to obtain a stable replacement rate which is based on *disposable income* (the replacement rate of actual income would decline).

American Retail Federation; Council of State Chambers of Commerce.

6. Costs could be further reduced by providing benefit increases at a rate of 70 percent of the increase in the cost of living.

Teachers Insurance and Annuity Association/College Retirement Equities Fund.

7. Gradually declining replacement rates would result in greater equity between individuals retiring in different years, reduce financial strain on the system, and give Congress latitude with respect to benefit levels.

Council of State Chambers of Commerce.

8. Decouple lowering the replacement rate for high income earners to no more than 30 percent and provide a percentage cap of 65 percent of predisability earnings.

Health Insurance Association of America.

E. Computation period—opposed to any shift back toward computation of benefits at a later age (65) as producing an across-the-board cut in benefits.

American Home Economics Association; National Senior Citizens Law Center.

VI. Reallocation of Revenues Between Trust Funds

A. Supports the provision in H.R. 8218 which lowers the HI tax rate in order to shift those revenues to the OASDI trust funds.

American Federation of Labor and Congress of Industrial Organizations; American Retail Federation; Robert M. Ball; National Council on the Aging, Inc.; National Council of Senior Citizens; National Retired Teachers Association/American Association of Retired Persons; Council of State Chambers of Commerce; United Auto Workers.

Specific comments

1. Increase in the taxable wage base for employers and employees will provide more funds for the HI Trust Fund and allow the shift of money from HI to OASDI.

Robert M. Ball; National Council on the Aging, Inc.; National Retired Teachers Association/American Association of Retired Persons.

2. Cost containment will decrease HI expenditures.

Robert M. Ball; National Retired Teachers Association/American Association of Retired Persons; United Auto Workers.

3. Use of general revenues will allow the shift of HI money to OASDI.

National Retired Teachers Association/American Association of Retired Persons.

B. Opposed to the shift of revenues from HI to OASDI, as provided for in H.R. 8218.

American Iron and Steel Institute; American Society of Personnel Administration; Chamber of Commerce of the United States; Machinery and Allied Products Institute; Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; National Retired Teachers Association/American Association of Retired Persons; New York Chamber of Commerce and Industry; Small Business Legislative Council.

Specific comments

1. HI Trust Fund is not in sound financial condition.

Robert J. Myers.

2. Provision in H.R. 8218 is based on unrealized savings from hospital containment legislation which has not yet been enacted.

Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; Small Business Legislative Council.

C. Opposed to shifting of funds between trusts.

1. Opposed to legislation to merely reallocate and temporarily avoid exhaustion of the DI Trust Fund.

National Retired Teachers Association/American Association of Retired Persons.

2. Opposed to any shift of funds from one trust to another because it blurs the true costs of individual programs, and makes it more difficult to project cost increases and hold the proper authorities accountable.

American Society of Personnel Administration.

D. Other proposals regarding trust fund allocations.

1. Should be a regular mechanism to transfer funds from one trust to the other in times of need but only as a repayable loan.

Machinery and Allied Products Institute.

2. The DI Trust Fund should get a larger proportion of any increase in the OASDI tax rate.

Robert J. Myers.

3. Provide for a national health insurance system and shift all HI revenues to OASDI.

Mountain Plains Congress of Senior Organizations.

E. Trust fund levels.

1. A lower trust fund reserve is possible when a guarantee of general fund money is in the law.

Robert M. Ball; Wilbur J. Cohen.

2. DHEW says that a reserve of 50 percent is needed to weather another recession; general revenue proposal in H.R. 8218 would allow that level to drop to 33 percent.

Robert M. Ball.

3. A lower reserve ratio may be alright even without general revenues.

Wilbur J. Cohen.

4. A trust fund level of 50 percent is needed to keep public confidence in the system.

National Retired Teachers Association/American Association of Retired Persons.

5. Trust fund levels should be at least at current levels, and higher if possible.

New York Chamber of Commerce and Industry.

6. It will be very difficult to build up trust fund levels to their former level through taxing. Rather than reinstituting an amendment for the use of general revenues such as the Vandenberg amendment, use a repayable loan to the trust funds from the general revenues.

Robert J. Myers.

7. Trust fund levels should be maintained at the level of 40 percent of a year's expenditures.

Machinery and Allied Products Institute.

VII. Dependency

A. Supports the provision in H.R. 8218 which defines a dependent as one whose income was less than the worker's income in the 3 years preceding the worker's death or filing for retirement or disability benefits.

Association of American Railroads/National Railway Labor Conference; American Federation of Labor and Congress of Industrial Organizations; American Iron and Steel Institute; American Retail Federation; American Society for Personnel Administration; Robert M. Ball; Wilbur J. Cohen; Chamber of Commerce of the United States; Health Insurance Association of America; Machinery and Allied Products Institute; Robert J. Myers; National Association of Life Underwriters; National Association of Manufacturers; New York Chamber of Commerce and Industry; Small Business Legislative Council; United Auto Workers.

Specific comments

1. The provision should be studied to protect against any inequities which might develop as a result of a secondary wage earner becoming the primary wage earner during the last 3 years before the retirement or death of a worker.

American Federation of Labor and Congress of Industrial Organizations.

2. The Railroad Retirement Act of 1974 should be amended to correspond to the definition of dependency in H.R. 8218.

Association of American Railroads/National Railway Labor Conference.

3. Will increase the administrative costs and payments in many cases, primarily where a woman is the spouse or widow.

Wilbur J. Cohen.

B. Opposes the dependency provision in H.R. 8218.

Community Service Society of New York; Rep. Donald M. Fraser; Rep. Millicent Fenwick; Nancy Gordon; Rep. Martha E. Keys; Rep. Barbara A. Mikulski; National Organization of Women; New Jersey Division of Pensions; Women's Alliance on Legal Opportunities and Protection.

Specific comments

1. The dependency test would generate an unwarranted detailed investigation of personal circumstance.

Community Service Society of New York.

2. Individual determinations of dependency are incongruent with the general philosophy of social insurance.

Community Service Society of New York.

3. The provision doesn't make sense and is politically, socially, and administratively unacceptable.

New Jersey Division of Pensions.

4. Many victims of the provision will be women who are protected under present law, including those women who earn more than their husbands in only the last three years before filing for benefits.

Rep. Fraser; Rep. Keys; Rep. Mikulski; Women's Alliance on Legal Opportunities and Protection.

5. There should be no dependency test for men or women.

Community Service Society of New York.

6. The dependency provision is arbitrary, based on an artificial concept and creates more problems than it solves.

Rep. Fraser, Rep. Keys, Rep. Mikulski.

C. Other proposals to prevent windfall benefits to those receiving public pensions and qualifying as social security dependents as well.

1. Provide coverage for all public employees.

American Federation of State, County, and Municipal Employees; American Home Economics Association; American Retail Federation; American Society of Personnel Administration; Robert M. Ball; Wilbur J. Cohen; Community Service Society of New York; Robert F. Link; Machinery and Allied Products Institute; Robert J. Myers; Council of State Chambers of Commerce; Teachers Insurance and Annuity Association/College Retirement and Equities Fund; Women's Alliance on Legal Opportunities and Protection.

2. Consider a public pension as a social security benefit and when an individual is entitled to both, he/she would receive the higher.

Wilbur J. Cohen.

VIII. Retirement Test—Retirement Age

A. Retain the retirement provision.

American Federation of Labor and Congress of Industrial Organizations; American Retail Federation; Machinery and Allied Products Institute; National Council of Senior Citizens; Council of State Chambers of Commerce; Teachers Insurance and Annuity Association/College Retirement Equities Fund.

Specific comments

1. Eliminate the inequities of current law by changing from a monthly to an annual test.

American Retail Federation; Machinery and Allied Products Institute; Council of State Chambers of Commerce.

2. Those who would benefit from abolishing the retirement test are few and usually in better health, and have better jobs than the retired population in general. The cost to the system cannot be justified.

American Federation of Labor and Congress of Industrial Organizations.

3. Abolishing the retirement test would be financially irresponsible and severely inequitable to most beneficiaries.

National Council of Senior Citizens.

4. Liberalizing or abolishing the retirement test would result in the transfer of money from young workers to older workers; not a proper transfer under a social insurance system.

Teachers Insurance and Annuity Association/College Retirement Equities Fund.

B. Liberalize the retirement test.

American Jewish Congress; Senator Dale Bumpers; Community Service Society of New York; Rep. Robert J. Cornell; Rep. Joseph Gaydos; Rep. Hannaford; Rep. John W. Jenrette, Jr.; Rep. Elliott H. Levitas; Rep. Trent Lott; National Council on the Aging, Inc.; National Senior Citizens Law Center; Mr. and Mrs. Robert W. Reilly; Rep. C. W. Young.

C. Proposals to liberalize the retirement test.

1. Increase earning limitation amount to:

a. \$4,000.

American Jewish Congress.

b. \$4,800.

Sen. Bumpers; Rep. Young.

c. \$5,000.

Rep. Gaydos; National Council on the Aging, Inc.; Rep. Cohen; Rep. Mottl.

d. \$7,500.

Rep. Hannaford; Rep. Lott.

e. \$7,800.

Sen. Stone.

2. Increase limit to \$6,000 but include unearned income in the calculation.

Rep. Jenrette.

3. Establish limit at 150 percent of poverty-level income.

Rep. Levitas.

4. Adopt liberalization recommended in the Advisory Council Report of 1975—withhold \$1 of every \$3 earned between the exempt level and twice that level and \$1 of every \$2 earned over twice that level, with no upper limit.

Community Service Society of New York.

5. Increase limit to the difference between an individual's benefit and the maximum benefit of the type involved, plus current allowed limit.

Rep. Cornell; Rep. Drinan.

6. Exempt widow(er)s from the retirement test.

Mr. and Mrs. Reilly.

D. Prefers elimination of the retirement test, but if that is not possible, liberalize current test.

Rep. Bingham; Rep. William S. Cohen; Rep. Drinan; Rep. Mottl; Rep. Pepper; Sen. Stone; Prof. Zeckhauser.

1. Eliminate for ages 65–72.

Rep. John B. Anderson; Rep. Benjamin A. Gilman; Sen. Barry Goldwater; Rep. Pepper.

2. If retained, change to annual instead of monthly test.

Rep. Pepper.

E. Abolish the retirement test.

Rep. Armstrong; Gordon C. Baker; Rep. Silvio O. Conte; Rep. Phillip M. Crane; Rep. Fenwick; Edward Gonzalez; Rep. Charles E. Grassley; Rep. Robert Lagomarsino; Mountain Plains Congress of Senior Organizations; National Retired Teachers Association/American Association of Retired Persons; Rep. Ottinger; Rep. Panetta; Rep. Rooney; Rep. Rousselot.

1. Unfair because it falls most heavily on low-income individuals.

Rep. Anderson; Sen. Goldwater; Edward Gonzalez; Rep. Grassley; Rep. Gilman; Mountain Plains Congress of Senior Organizations.

2. Unfair because it takes only earned income into account.

Rep. Armstrong; Rep. Fenwick; Sen. Goldwater; Rep. Gilman; Rep. Lagomarsino; Mountain Plains Congress of Senior Organizations; Rep. Ottinger.

3. Limit is a disincentive to dignity and self-sufficiency in the elderly.

Rep. Conte; Rep. Crane; Rep. Grassley; Rep. Gilman; Rep. Rousselot.

4. Will increase general tax revenues if abolished.

Rep. Conte; Rep. Crane; Rep. Lagomarsino; Mountain Plains Congress of Senior Organizations; Rep. Panetta.

5. Social security is inadequate as sole income, resulting in many older people living in poverty and seeking employment.

Rep. Crane; Rep. Fenwick; Edward Gonzalez.

6. Penalizes working wives with children under age 18.

Rep. Anderson.

7. The 50-percent tax on income over and above the limit is discriminatory.

Sen. Goldwater; Rep. Gilman; Rep. Lagomarsino.

8. Results in loss of skills and output from the economy.

Sen. Goldwater; Rep. Gilman; Rep. Lagomarsino; Rep. Panetta; Rep. Rousselot.

9. Longer lifespans and better health would enable people to work at older ages.

Rep. Grassley.

10. Social security is an earned pension not related to need, therefore there should be no limit on income after becoming a beneficiary.

Rep. Gillman; Rep. Grassley.

F. Proposals to increase the retirement age.

1. Raising the retirement age on a phase-in basis would result in substantial savings.

Rep. McClory; Rep. Rousselot.

2. There is a need of greater labor force participation among older people in the next century; need to reverse the trend toward early retirement.

Robert M. Ball.

3. Move the normal retirement age forward to 68 and early retirement to 65 to reflect the increasing number of older persons and their greater capacity to continue working.

Machinery and Allied Products Institute; Teachers Insurance and Annuity Association/College Retirement Equities Fund.

4. Increase the retirement age to utilize skills and experience of the elderly and to help the long-range financing problems of the system.

American Society of Personnel Administration; William Kemp, Jr.

G. Other proposals regarding the retirement age.

1. Remove mandatory retirement age for federal employees and lift the private retirement age to 70.

Rep. Ottinger.

2. Permit early retirement at age 60, but with less of a reduction in benefits.

American Federation of Labor and Congress of Industrial Organizations.

3. Reduce age of eligibility for full social security benefits to age 62.

Rep. Mottl.

4. Increase the delayed retirement credit to provide significantly higher benefits for late retirement.

Rep. Cornell; Prof. Zeckhauser.

5. Opposed to any raising of the social security eligibility age.

Seniors for Adequate Social Security.

6. Allow full retirement benefits to a qualified individual at any time after age 60, if he/she has been forced to retire by Federal law, regulation, or order.

Rep. William Lehman.

IX. Equal Treatment of Men and Women

A. Supports the concept of earnings-splitting between husbands and wives to enable a homemaker to have her own wage record for social security purposes.

American Jewish Congress; Business and Professional Women; Committee for Equity for Women in Social Security and Pensions; Rep. Cornell; Rep. Fenwick; Rep. Fraser; Rep. Keys; Rep. Lehman; Rep. Mikulski; Rep. John Joseph Moakley; Rep. Mottl; National Organization of Women; Rep. Richard Nolan; Unitarian-Universalist Women's Federation; Women's Alliance for Legal Opportunities and Protection.

Specific comments

1. Eliminates the need for a dependency concept and gender-based distinctions in the social security system.

Rep. Fraser; Rep. Keys; Rep. Moakley; Rep. Nolan.

2. A change in social security assumptions regarding dependency is warranted due to changes in societal patterns and institutions.

Business and Professional Women; Committee for Equity for Women in Social Security and Pensions; Rep. Fenwick; Rep. Fraser; Nancy Gordon; Rep. Keys; Rep. Mikulski; Rep. Moakley; Rep. Mottl; National Organization of Women; Unitarian-Universalist Women's Federation.

3. Assumes marriage is an economic partnership; will help to offset low earnings and sporadic work record which currently result in low benefits for women.

Rep. Fenwick; Rep. Fraser; Rep. Keys; Rep. Lloyd; Rep. Moakley; Rep. Mottl; National Organization of Women.

4. Would provide lifelong homemakers and divorcees with their own earnings record and possible entitlement to OASDI benefits.

American Jewish Congress; Business and Professional Women; Committee for Equity for Women in Social Security and Pensions; Rep. Fenwick; Rep. Fraser; Rep. Keys; Rep. Moakley; Rep. Mottl; National Organization of Women; Unitarian-Universalist Women's Federation.

5. The concept is simple and benefits those who currently lose out on women's earnings—children and widowers.

Rep. Moakley.

6. All women are treated equally regardless of their marital or work status.

Rep. Lloyd.

7. Under present law, a woman is not eligible for part A of Medicare if her husband is not a beneficiary, but with her own earnings record she may become eligible at age 65 regardless of the status or age of her husband.

Business and Professional Women; Committee for Women in Social Security and Pensions; Unitarian-Universalist Women's Federation.

8. Discrepancies remain in taxes on the same income between one-earner and two-earner families while tax base is applied as an individual maximum.

Nancy Gordon.

9. Social security should provide equal benefits to both spouses based on income, regardless of which spouse earned it.

Mary Marshall.

B. Proposals regarding homemaker credits.

1. Provide accrued credits for OASDI to the full-time homemaker for each year she is married and for every marriage.

American Home Economics Association.

2. Provide disability coverage for women during homemaker years and coverage for survivors in case of death.

American Home Economics Association.

3. Assign earnings records to homemakers caring for dependent children or those who spend less than one-quarter time outside the home.

Nancy Gordon.

4. Calculate a salary for full time homemakers at the minimum wage.

American Home Economics Association.

C. Entitlement to widows benefits.

1. Provide entitlement to widow's benefits at age 50.

Business and Professional Women; Committee for Equity for Women in Social Security and Pensions; Rep. Cornell; Rep. Fraser; Rep. Keys; Mary Marshall; National Organization of Women; Unitarian-Universalist Women's Federation.

2. Marriage or remarriage of an individual entitled to widow(er)s or parent's benefits should not terminate such individual's entitlement to benefits nor reduce the amount of the benefit.

Rep. Armstrong; Rep. Young.

3. Provide a period of benefits for the younger widow without children while she prepares for the job market and full benefits at age 50.

Mrs. C. J. Harrington; Mary Marshall.

- D. Provide for optional computation of benefits based on the combined earnings of a married couple.**

American Federation of Labor and Congress of Industrial Organizations; Rep. Drinan.

E. Duration of marriage.

1. Reduce the duration of marriage requirement for a divorced spouse to qualify for benefits on the other spouse's record.

American Federation of Labor and Congress of Industrial Organizations; American Jewish Congress; Business and Professional Women; Committee for Equity for Women in Social Security and Pensions; Rep. William L. Dickinson; Rep. Hannaford; National Organization of Women; Unitarian-Universalist Women's Federation; Women's Alliance for Legal Opportunities and Protection.

2. Establish benefit rights for divorcees based on the duration of the marriage.

Mary Marshall.

3. In 1976 only 8 percent of divorces were of marriages which lasted 20 years or more.

Nancy Gordon.

F. Computation period.

1. Exclude child-rearing years from computation of the average monthly earnings.

National Organization of Women; Mary Marshall.

2. Increase the number of drop-out years in the benefit computation.

American Federation of Labor and Congress of Industrial Organizations.

G. Proposals to end discrimination against working wives.

1. Have different tax rates based on marital status.

2. Give working wife 40 percent of husband's benefit plus her own; not to exceed highest maximum to one person, or exempt wife from taxation.

3. Give same flat rate benefit to all surviving spouses and children.

Mr. and Mrs. Rolly.

H. Proposals for financing increased benefits for women.

1. Higher tax for men with dependent spouses; all social security taxes deductible on personal income tax.

2. Tax spouses filing a joint income tax return—social security taxes would be paid on each half of income up to the maximum taxable base.

American Home Economics Association.

X. Coverage

A. Totalization.

1. Supports the provisions in H.R. 8400 to allow for totalization agreements between the United States and foreign governments.

Association of American Citizens Insured in the German Retirement System; American Chambers of Commerce in Italy and Switzerland; American Committee on Italian Migration; American Federation of Jews from Central Europe; American Federation of Labor and Congress of Industrial Organizations; Alice J. Baer; Brown Boveri Corp.; Chamber of Commerce of the United States; Conference on Jewish Material Claims Against Germany, Inc.; Dow Chemical Europe; Sulzer Bros; Sperry Rand Corp.; Marcel Stein.

a. Benefits American and multinational corporations by reducing the cost of doing business abroad.

American Chambers of Commerce in Italy and Switzerland; Brown Boveri Corp.; Chamber of Commerce of the United States; Dow Chemical Europe; Sulzer Bros.; Sperry Rand Corp.

b. Will help U.S. balance of payments.

American Chambers of Commerce in Italy and Switzerland; American Committee on Italian Migration; Chamber of Commerce of the United States.

c. Will help employees who have careers in various countries and who have paid into many systems but have qualified for no benefits because of short attachment to each system.

American Chambers of Commerce in Italy and Switzerland; American Committee on Italian Migration.

d. Will assist in keeping immigrants off the welfare rolls because of disability, death, or retirement because they may be able to claim a benefit from another country.

American Committee on Italian Migration.

2. Should be transitional procedures for those who have established dual eligibility or soon will, so as not to suffer lower total benefits as a result of the legislation.

American Federation of Labor and Congress of Industrial Organizations.

3. Would like an expression of legislative intent to re-open the deadline for application to the Federal Republic of Germany (FRG) for social security benefits for Nazi victims.

American Federation of Jews from Central Europe.

4. Request that the U.S. Government obtain from the government of the FRG an undertaking that the FRG will insure U.S. citizens who are Nazi victims the same rights as those granted to similar victims in bilateral agreements between the FRG and other countries.

Conference on Jewish Material Claims Against Germany, Inc.

5. Requests an administrative agreement between the United States and the FRG to reopen deadlines for voluntary contributions and to make total FRG social security payments payable to Nazi victims while they are residing in the United States.

Marcel Stein.

B. Universal coverage.

1. Favors the concept of mandatory universal coverage.

American Federation of State, County, and Municipal Employees; American Home Economics Association; American Retail Federation; American Society of Personnel Administration; Robert M. Ball; Wilbur J. Cohen; Chamber of Commerce of the United States; Community Service Society of New York; Rep. Levitas; Robert F. Link; Machinery and Allied Products Institute; Robert J. Myers; Rep. Pepper; Council of State Chambers of Commerce; Teachers Insurance and Annuity Association/College Retirement Equities Fund; Women's Alliance on Legal Opportunities and Protection.

2. Favors optional coverage for federal employees.

Affiliated Government Organizations; Illinois Council of the Congress of Organizations of the Physically Handicapped.

3. Opposed to mandatory coverage of federal employees.

National Association of Retired Federal Employees.

4. Has serious reservations about mandatory coverage of federal employees.

National Association of Letter Carriers.

5. Retain current provisions regarding coverage of local governments.

National League of Cities.

C. Specific coverage amendments.

1. Supports H.R. 2480 to include Mississippi among the States which may provide social security coverage for policemen and firemen.

Rep. David R. Bowen; Mississippi Public Employees Retirement System; Rep. Trent Lott; Rep. Gillespie V. Montgomery.

2. Supports passage of H.R. 6211 to validate certain past social security coverage of policemen and firemen in positions covered by the Illinois municipal retirement fund.

Illinois Association of Chiefs of Police.

3. Supports H.R. 6460 to extend coverage for nonresident workers on Guam, because many nonresident workers have worked long enough to become entitled; noncoverage for them makes their labor cheaper and puts resident workers at a disadvantage in the labor market.

Rep. Antonio B. Won Pat.

4. Supports amendment of the Social Security Act to include New Jersey in the list of States which may establish a divided retirement system for the purpose of providing social security coverage to State and local employees under Federal-State agreements.

Jean Marie Kelly.

D. Coverage of nonprofit organizations.

1. Requests amendment of Public Law 94-563 regarding coverage of nonprofit organizations in order to:

a. Provide an adequate period of time for an affected organization to file a waiver certificate listing employees who desire retroactive coverage.

b. Permit the organization to deduct employees' share of retroactive taxes from the wages of an employee who elects social security.

c. Permit the current employees of an organization to remain outside social security without any retroactive liability if the organization has a private annuity or pension.

d. Permit installment payment of retroactive liability over an appropriate period of time.

e. Provide reimbursement to an organization that refunded the employee amounts previously deducted and paid to FICA, under IRS instructions.

Legal Services Corp.

2. An amendment to P.L. 94-563 should allow current and future employees to opt out of social security.

Neighborhood Legal Services.

3. Exempt nonprofit organizations from liability for retroactive taxes required under P.L. 94-563.

Thee Door of Central Florida, Inc.

4. Allow nonprofit organizations the option to participate in social security.

Thee Door of Central Florida, Inc.

XI. Benefits

A. *Loss of eligibility for other programs.*—Insure that increases in social security benefits do not cause cutbacks or loss of eligibility for:

1. Homestead or similar State measures.

Rep. Mottl.

2. Federal assistance programs or veterans' pensions.

Rep. Fenwick; Rep. Gaydos; Rep. Ottinger.

B. *Prorating of benefit checks in case of death.*—In the case of the death of a beneficiary, the heirs or surviving beneficiaries should be entitled to:

1. A prorated benefit for the month in which the beneficiary dies.

Rep. Young.

2. The full benefit for the month in which the beneficiary dies.

Rep. Armstrong.

C. Adequacy of benefits.

1. Benefit levels are inadequate.

Community Service Society of New York; Joint Committee of Senior Citizens Organizations; Ray S. Oliver; Seniors for Adequate Social Security.

a. Adopt a standard for income adequacy which corresponds to the intermediate budget for an elderly couple, compiled by the Bureau of Labor Standards.

Joint Committee of Senior Citizens Organizations; Seniors for Adequate Social Security.

b. Recommends adoption of Robert M. Ball's proposal to increase the primary insurance amount (PIA) by 12½ percent and decrease the spouse's benefit from 50 percent of the PIA to 33½ percent.

Community Service Society of New York.

2. Benefits are more than adequate.

a. Opposed to "limitless" expansion of benefits; should be a base of protection only and a function of taxes collected.

American Society of Personnel Administration.

b. Eliminate progressivity of the benefit formula; relate benefits to contributions.

Machinery and Allied Products Institute; National Retired Teachers Association/American Association of Retired Persons.

D. Student benefits.

1. Eliminate student benefits because social insurance insures against risks and school is an option. Student benefits under social security provide student assistance and are not an earned right.

Chamber of Commerce of the United States.

2. Opposed to the administration proposal to apply the basic educational opportunity grant (BEOG) ceiling to student benefits under OASDI because BEOG grants are need-tested and student aid, while OASDI student benefits are an earned right and represent family income.

American Council on Education.

3. Opposed to reduction of student benefits; they are survivor benefits, not educational benefits, and therefore, are an earned right and family income, not student aid.

American Federation of Labor and Congress of Industrial Organizations.

E. *Period of retroactivity*.—Opposes cutting back on period of retroactivity of benefits because it penalizes only the low-income and elderly who are ignorant of the system.

National Senior Citizens Law Center.

F. *Lump-sum benefit*.—Supports lump-sum optional benefit elimination because the permanent impact will be beneficial—individuals may no longer make an unwise choice for cash and reduced monthly benefits.

American Federation of Labor and Congress of Industrial Organizations.

G. Minimum benefit.

1. Raise the minimum benefit.

Rep. Bingham; Rep. Brodhead.

2. Raise the special minimum benefit to at least the poverty level with benefits adjusted for the rise in the CPI.

American Federation of Labor and Congress of Industrial Organizations.

3. Freeze the minimum benefit at current levels.

Robert M. Ball; Community Service Society of New York; Council of State Chambers of Commerce.

4. Eliminate or freeze the minimum benefit.

Machinery and Allied Products Institute; Teachers Insurance and Annuity Association/College Retirement Equities Fund.

5. Do not allow the minimum benefit to exceed 100 percent of the average monthly earnings (AME).

Machinery and Allied Products Institute.

6. Cut back on benefits paid to individuals who have had a minimum number of years of earnings in covered employment.

Council of State Chambers of Commerce.

7. Require 80 quarters of coverage for the minimum benefit; any less should be paid on the basis of 100 percent of the AME.

American Retail Federation.

8. Benefit levels should be proportionately reduced for those with less than a full term of covered service.

Robert F. Link.

XII. Special CPI for the Elderly—Semiannual Cost of Living Increases

A. Supports a special consumer price index (CPI) for the elderly.

American Jewish Congress; American Federation of Labor and Congress of Industrial Organizations; Rep. Bingham; Rep. Conte; Rep. Cornell; Rep. Lawrence Coughlin; Rep. Drinan; Rep. Lloyd; Rep. Mottl; National Council on the Aging, Inc.; National Council for Senior Citizens; National Retired Teachers Association/American Association of Retired Persons; Rep. Ottinger; Rep. Pepper; Rep. Benjamin S. Rosenthal; Rep. Bob Traxler; Rep. Bruce F. Vento.

B. Supports semiannual cost of living adjustment to keep pace with rapidly rising inflation rates and to avoid erosion of the purchasing power of social security benefits.

American Federation of Labor and Congress of Industrial Organizations; Rep. Bingham; Rep. Conte; Rep. Cornell; Rep. Lloyd; National Council on the Aging, Inc.; National Council of Senior Citizens; Rep. Ottinger; Rep. Pepper; Rep. Rooney; Rep. Rosenthal; Rep. Traxler; Rep. Vento.

C. Other proposals.

1. Increase benefits for those beneficiaries living in areas where the cost of living exceeds the national average.

Rep. Rosenthal.

2. Adjust the benefits for those already on the rolls by the rise in wages, so that elderly will also share in increases in the standard of living of the general population.

National Council on the Aging, Inc.

3. July benefit check would contain an additional retroactive amount to cover the CPI increase for the three month lag period.

American Jewish Congress.

4. If inflation is below 3 percent, no CPI change takes place in benefit amounts under present law and the relative value of benefits diminishes; remedy this by either eliminating the 3-percent minimum or make a CPI increase of less than 3 percent cumulative from year to year.

American Jewish Congress.

XIII. Disability Insurance Program

A. Financing.

1. Support the provision in H.R. 8076 to provide for separate financing of the DI program.

American Federation of Labor and Congress of Industrial Organizations; National Rehabilitation Association.

2. DI financing should be an integral part of any current financing package and not acted on separately.

American Federation of Labor and Congress of Industrial Organizations.

3. Long term, innovative legislation is needed regarding fiscal management of the DI trust fund.

Council of State Administrators of Vocational Rehabilitation.

B. Eligibility for DI benefits.

1. Definition of disability.

a. Support the definition of disability in H.R. 8076 which provides for a medical definition under age 50 and a medical or

occupational definition for those over age 50, but with a reduction in benefits for those qualifying under the occupational definition.

National Rehabilitation Association.

b. Supports the definition of disability in H.R. 8076 but opposes a reduction of the benefits for those who qualify for the occupational definition.

American Federation of Labor and Congress of Industrial Organizations.

c. Supports the definition of disability in H.R. 5064 which provides that when a determination of disability is made, the beginning and ending date of entitlement, reason for cessation of benefits, and feasibility of rehabilitation to end the disability must be included.

Howard I. Grossman; Rep. Levitas; Vocational Evaluation of Work Adjustment Association.

d. Definition in H.R. 8076 is more appropriate than that in H.R. 5064.

National Association of Disability Examiners.

e. Opposed to the definition of disability provision in H.R. 8076.

Legal Aid Bureau.

f. Opposed to using age as the primary factor in applying a particular definition of disability.

Council of State Administrators of Vocational Rehabilitation.

g. Urges Congress not to liberalize the definition of disability.

Chamber of Commerce of the United States.

h. Opposes the provision in H.R. 5064 which would require the prediction of the date of the cessation of disability.

National Association of Disability Examiners.

i. Definition of disability in H.R. 8076 would produce problems such as prolonging disabilities beyond normal expectations.

Health Insurance Association of America.

j. Definition of disability for benefits payable between five months and one year following disability should be based on total and permanent disability only, or disability expected to terminate in death.

Health Insurance Association of America.

k. After 12 months of disability the definition should require that the claimant be unable to engage in any occupation of employment for which he is or might become qualified by education, training, or experience.

Health Insurance Association of America.

l. The problems with applying the current definition of disability are due to a lack of Federal assistance, not Federal control.

Council of State Administrators of Vocational Rehabilitation.

m. Opposed to any change in the present definition of disability pending further study by their organization.

Council of State Administrators of Vocational Rehabilitation.

n. Opposes deletion of the word "substantial" from the definition of disability, as proposed in section 3(a) of H.R. 8076.

Affiliated Leadership League of and for the Blind.

o. The definition of disability must be made more objective.

National Retired Teachers Association/American Association of Retired Persons.

p. Extend to the blind, regardless of age, the occupational definition of disability which is in law and applied to the blind over age 55.

Affiliated Leadership League of and for the Blind.

2. Pay DI benefits for a disability which lasts longer than 1 month without consideration of expected duration; pay DI benefits for pregnancy. Support an occupational definition of disability.

American Federation of Labor and Congress of Industrial Organizations.

3. Make disabled widow(er)s eligible for unreduced DI benefits regardless of age.

American Federation of Labor and Congress of Industrial Organizations, Rep. Conte.

4. Make disabled, surviving divorced wives eligible for unreduced DI benefits regardless of age.

American Federation of Labor and Congress of Industrial Organizations.

5. Provide benefits for disabled wives of social security beneficiaries.

American Federation of Labor and Congress of Industrial Organizations.

C. Federal-State relationship.

1. Supports the provision in H.R. 8076 which gives DHEW the authority to take over a State agency which does not perform at an acceptable level.

American Federation of Labor and Congress of Industrial Organizations; Health Insurance Association of America; National Association of Disability Examiners.

2. Action of taking over a state agency should be done only as a last resort.

National Rehabilitation Association.

3. Opposed to provision of H.R. 8076 to permit DHEW to take over a State agency; if federalization is the goal, provide for full federalization in the bill.

Council of State Administrators of Vocational Rehabilitation.

4. Supports full federalization of the DI determination process.

American Federation of Labor and Congress of Industrial Organizations; Robert M. Ball; Empire State Association of Disability Examiners; National Association of Disability Examiners.

5. Disability determination units (DDU) should be administered by a single State agency designated to administer the vocational rehabilitation program.

National Rehabilitation Association.

6. Emphasize the State/Federal partnership and recognize mutual responsibilities.

National Rehabilitation Association.

7. Endorse provision in H.R. 8076 to establish greater Federal control over "indirect costs" for services rendered to the DDU.

National Association of Disability Examiners.

8. It is unclear as to what is meant by "actual costs" and "indirect costs" in H.R. 8076.

Council of State Administrators of Vocational Rehabilitation.

D. Hearings and appeals process.

1. Supports provisions in H.R. 8076 and H.R. 5072 which provide for an optional, face-to-face conference at the reconsideration level.

American Federation of Labor and Congress of Industrial Organizations; Legal Aid Bureau; National Association of Disability Examiners; National Rehabilitation Association; Rep. B. F. Sisk.

2. Recommend that a reconsideration conference be held only when a review of the evidence and development does not support reversal.

National Association of Disability Examiners.

3. Eliminate mandatory reconsideration and allow for an optional face-to-face reconsideration (prehearing) to proceed simultaneously with processing of the request for a hearing.

National Senior Citizens Law Center.

4. Endorses the concept of an "informal" prehearing stage conference between claimants and representatives of HEW.

Association of Administrative Law Judges (HEW).

5. Recommend that the provision in H.R. 8076 regarding the distance a claimant must travel to a reconsideration interview before being reimbursed for travel be reduced from 100 to 25 miles.

Legal Aid Bureau.

6. Establish an adversary-type hearings process, requiring attorneys to represent parties.

Association of Administrative Law Judges (HEW); Rep. Levitas.

7. Opposed to establishing an adversary hearings process.

National Senior Citizens Law Center.

8. Claimant should be represented by an attorney, paid from past due benefits, legal aid, or (in cases of nonrecovery of past benefits) by the Federal Government.

National Bar Association.

9. Supports provision in H.R. 5064 which would provide for face-to-face reconsideration with a vocational rehabilitation counselor present.

Vocational Evaluation and Work Adjustment Association.

10. Impose a time limit on processing cases at the hearings level.

Rep. John F. Seiberling; Rep. Jim Weaver.

11. Impose a time limit on processing cases at the reconsideration level.

Rep. Seiberling; Rep. Sisk; Rep. Weaver.

12. Support reconsideration time limit provision in H.R. 8076.

Legal Aid Bureau.

13. Change the 60-day limit on reconsideration of claims provision in H.R. 8076 to "within a reasonable time".

Council of State Administrators of Vocational Rehabilitation.

14. Cases which take in excess of 60 days to develop are often delayed due to difficulty in obtaining medical records; a time limit on cases may increase the risk of denial on the basis of insufficient evidence.

National Association of Disability Examiners.

15. Solve time lag in hearings process by adding hearings officers and/or enforcing more accountability.

Mountain Plains Congress of Senior Organizations.

16. SSA administrative law judges (ALJ) should be appointed under the Administrative Procedures Act, at the GS-16 level.

Rep. Levitas; Rep. Sisk.

17. ALJ's should have a separate salary classification, without in-grade step differentials, set at 90 percent of the pay level of U.S. District Court judges.

Association of Administrative Law Judges (HEW).

18. Opposes any attempt by DHEW or SSA to exert greater control over ALJ's, and so-called "peer review."

National Bar Association.

19. Selection procedure for ALJ's is too subjective; no more than a screening device; testing material is irrelevant; there is racial discrimination against the appointment of minority judges.

National Bar Association.

20. Favors conversion of temporary ALJ's to be permanent ALJ's as provided for in H.R. 5725 and H.R. 5723.

Rep. John B. Anderson; Association of Temporary Administrative Law Judges.

21. ALJ's should be granted general remand authority.

National Bar Association; Rep. Sisk.

22. Favors establishment of a review board composed of ALJ's to review the decisions of ALJ's.

National Bar Association.

23. Opposed to any effort to abolish, curtail, or in any way diminish judicial review of SSA cases.

National Bar Association.

24. Eliminate Appeals Council review stage, or at least impose stringent time limits; pay benefits in cases where statutorily established time limit has not been met.

National Senior Citizens Law Center.

25. Amend the judicial review provisions of the Social Security Act to expedite the handling of cases involving questions of constitutional or statutory construction.

National Senior Citizens Law Center.

26. Shift the burden of attorney's fees to the federal government when a claimant succeeds in an appeal of benefit decisions.

Rep. Cohen.

27. Sole responsibility of fixing attorney's fees should be in the hands of the ALJ who made the decision.

National Bar Association.

28. Payments of attorneys' fees should be expedited.

National Bar Association.

29. Supports discontinuing the informal remand procedure.

Council of State Administrators of Vocational Rehabilitation.

30. Remand clause in H.R. 8076 could cause confusion and erode uniformity; urge that present "good cause" grounds for a remand be

retained, in lieu of good cause for failure to introduce evidence in a prior proceeding.

Legal Aid Bureau; National Senior Citizens Law Center.

31. Supports provision in H.R. 8076 which establishes a specialized disability court.

Council of State Administrators of Vocational Rehabilitation; National Association of Disability Examiners; National Rehabilitation Association.

32. Opposes the provision in H.R. 8076 which establishes a specialized disability court.

American Federation of Labor and Congress of Industrial Organizations; Legal Aid Bureau.

33. Make the provision in H.R. 8076 for a disability court proceeding optional and give all claimants the right to appeal to the district courts.

National Senior Citizens Law Center.

34. Restrict appointment of people who were formerly employed by SSA or the Bureau of Hearings and Appeals (BHA) to the disability court.

National Senior Citizens Law Center.

35. As written, H.R. 8076 could give rise to jurisdictional disputes; possible duality of appeals.

National Senior Citizens Law Center.

36. To encourage uniformity, insert in H.R. 8076 a provision requiring SSA to conform to the requirements of disability court proceedings.

National Senior Citizens Law Center.

37. Clarify in H.R. 8076 the relationship between the disability court and the court of appeals to avoid confusion regarding whether the special court is bound on questions of law by the decisions of the appropriate circuit having jurisdiction.

National Senior Citizens Law Center.

38. Favors a requirement that findings of fact in claim determinations be based on a preponderance of the evidence rather than on substantial evidence.

Affiliated Leadership League of and for the Blind.

E. Substantial gainful activity (SGA).

1. Supports the provision in H.R. 8076 which increases the SGA limit to \$250 per month and gives regulatory authority for further increases.

American Federation of Labor and Congress of Industrial Organizations; Council of State Administrators of Vocational Rehabilitation; Legal Aid Bureau; National Rehabilitation Association.

2. Disregard from the calculation of SGA that portion of earnings of disabled used to defray expenses which derive directly from a handicap.

American Academy of Physical Medicine and Rehabilitation; American Congress of Rehabilitation Medicine; Illinois Council of the Congress of Organizations of the Physically Handicapped; National Easter Seal Society for Crippled Children and Adults.

3. Raise the SGA limit to \$300.

American Academy of Physical Medicine and Rehabilitation; American Congress of Rehabilitation Medicine; Illinois Council of the Congress of Organizations of the Physically Handicapped; National Easter Seal Society for Crippled Children and Adults.

4. Raise the SGA limit to equal the retirement test amount.

Rep. Levitas.

5. Favors defining "substantial gainful activity" in terms of amounts earned rather than through criteria fixed by the Secretary.

Affiliated Leadership League of and for the Blind.

6. Favors establishing an earnings standard for determining substantial gainful activity which would be sufficiently high to encourage disabled workers to return to work.

Affiliated Leadership League of and for the Blind.

7. Opposes penalizing beneficiaries for engaging in substantial gainful activity during the last 12 months of a 24-month trial work period, as proposed by section 7(a) of H.R. 8076.

Affiliated Leadership League of and for the Blind.

F. Trial work period.

1. Extend trial work period to 18 months with a grace period of 3 months (current law).

Illinois Council of the Congress of Organizations of the Physically Handicapped; National Easter Seal Society for Crippled Children and Adults.

2. Support provision in H.R. 8076 which extends the trial work period to 24 months, the first 12 months of which there is an income exemption.

American Federation of Labor and Congress of Industrial Organizations; Council of State Administrators of Vocational Rehabilitation; Legal Aid Bureau; National Rehabilitation Association.

3. Support the provision in H.R. 5064 which would extend the trial work period to 24 months and apply a benefit reduction such as that of the retirement test

Rep. Levitas.

4. Favors provision in H.R. 8076 to suspend rather than terminate eligibility for DI benefits for up to 2 years on return to work.

Health Insurance Association of America.

G. Vocational rehabilitation.

1. Supports provision of H.R. 8076 which would place funding and basic program responsibility on the regular vocational rehabilitation (VR) program and agency.

American Federation of Labor and Congress of Industrial Organizations; National Association of Disability Examiners.

2. Possible problems with change of funding of VR programs proposed in H.R. 8076.

a. A State would be required to appropriate State funds to match its Federal allotment at a ratio of 80:20 percent.

b. Monies would be appropriated from State and Federal treasuries, resulting in a disability program which is oriented more toward welfare and less toward contributions.

Council of State Administrators of Vocational Rehabilitation.

3. Recommends that there be no matching requirement for the \$200 million designated in H.R. 8076 as additional VR funds.

Council of State Administrators of Vocational Rehabilitation.

4. Supports the provision in H.R. 8076 which would provide for bonus matching of funds to the State VR agencies for rehabilitation

of DI beneficiaries and bonus matching of workshop clients' rehabilitation expenses.

American Federation of Labor and Congress of Industrial Organizations; National Association of Disability Examiners; National Rehabilitation Association.

5. Supports continuation of benefits during an approved VR program as provided for in H.R. 8076.

American Federation of Labor and Congress of Industrial Organizations; Council of State Administrators of Vocational Rehabilitation; Legal Aid Bureau; National Association of Disability Examiners; National Rehabilitation Association.

6. Opposes the provision in H.R. 8076 to provide for bonus matching of funds to VR agencies as very questionable.

Legal Aid Bureau.

H. Medicare for DI beneficiaries.

1. Eliminate 24-month waiting period for medicare eligibility.

American Academy of Physical Medicine and Rehabilitation; American Congress of Rehabilitation Medicine; Illinois Council of the Congress of Organizations of the Physically Handicapped; Rep. John W. Jenrette, Jr. National Easter Seal Society for Crippled Children and Adults.

2. Eliminate second medicare waiting period (provisions in H.R. 8076 and H.R. 5064).

American Federation of Labor and Congress of Industrial Organizations; Council of State Administrators of Vocational Rehabilitation, Rep. Levitas; National Easter Seal Society for Crippled Children and Adults; National Rehabilitation Association.

3. Extend medicare and medicaid benefits to employed disabled who have no other equally effective or comprehensive medical assistance plan available.

Illinois Council of the Congress of Organizations of the Physically Handicapped.

4. Supports the provision in H.R. 8076 which eliminates the requirement that months in the medicare waiting period be consecutive.

Legal Aid Bureau.

I. Payment for medical evidence and certain travel expenses of claimants.

1. Supports the provisions in H.R. 8076 and H.R. 5064 which would provide payment for providers of medical evidence used in the determination of disability.

Affiliated Leadership League of and for the Blind; American Federation of Labor and Congress of Industrial Organizations; Council of State Administrators of Vocational Rehabilitation; Legal Aid Bureau; Rep. Levitas; National Rehabilitation Association.

2. Favors payment by the Federal Government for travel incident to medical examinations and for travel to attend reconsideration reviews and proceedings before administrative law judges.

Affiliated Leadership League of and for the Blind; American Federation of Labor and Congress of Industrial Organizations; Council of State Administrators of Vocational Rehabilitation; National Association of Disability Examiners; National Rehabilitation Association.

J. Other DI program recommendations.

1. Eliminate the SGA limit for the blind, allowing them to collect benefits while employed and allow eligibility after attaining 6 quarters of coverage.

Affiliated Leadership League of and for the Blind; Rep. G. M. Anderson; Rep. Bingham; Rep. David R. Bowen; Rep. Conte; Rep. Tom Corcoran; Rep. Crane; Rep. Mendel J. Davis; Rep. James J. Delaney; Rep. Christopher J. Dodd; Rep. John G. Fary; Rep. Henry B. Gonzalez; Rep. Margaret M. Heckler; Rep. Ken Holland; Rep. Carroll Hubbard; Rep. William Lehman; Rep. James M. Jeffords; Rep. Jim Leach; Rep. Clarence D. Long; Rep. Lott; Rep. Stewart B. McKinney; Rep. Parren J. Mitchell; Rep. Mottl; Rep. Toby Moffet; Rep. John M. Murphy; Rep. William Natcher; National Federation of the Blind; Rep. Richard Nolan; Rep. Carl Perkins; Rep. Richardson Preyer; Rep. James H. Quillen; Rep. Ted Risenhoover; Rep. Robert A. Roe; Rep. Ronald A. Sarasin; Rep. John Slack; Rep. Fernand J. St Germain; Rep. Harley O. Staggers; Rep. Newton I. Steers, Jr.; Rep. Charles Thone.

2. Five-month eligibility waiting period.
 - a. Eliminate the present 5 month eligibility waiting period.
Rep. Armstrong; Illinois Council of the Congress of Organizations of the Physically Handicapped;
Rep. Jenrette; Rep. Lehman; Rep. Lott.
 - b. Retain the current waiting period.
Chamber of Commerce of the United States.
3. Have a special CPI for the disabled which will reflect their needs.
American Jewish Congress.
4. Establish a task-force to develop a comprehensive plan for employment of the handicapped.
Illinois Council of the Congress of Organizations of the Physically Handicapped.
5. Review of DI cases.
 - a. Favors 100 percent review of allowances.
Rep. Levitas.
 - b. Opposes the provision in H.R. 8076 which provides for 100 percent review of those claims which were allowed on a medical basis.
National Association of Disability Examiners.
6. DI laws have built-in biases against treatment of low-moderate to moderate-range retardates.
 - a. Establish clear, documented criteria for delineating such things as areas and degrees of self-care deficits.
 - b. Should never lose their disabled status; have a mechanism similar to the retirement test to reduce benefits during periods of employment.
 - c. Continue "in-her-care" benefits to the parent or guardian.
Morris Nebb.
7. Current benefit levels for the disabled are excessive.
 - a. There is a direct relationship between the proportion of income covered and the incidence and duration of disability.
 - b. The ratio of actual to expected claims increase sharply as the percentage of income insured becomes larger.
Health Insurance Association of America.
8. A cap on disability benefits should be included in the benefit formula so that DI and workmen's compensation benefits to workers and dependents never exceeds 65 percent of gross earnings at the time of disability.
Health Insurance Association of America.
9. Place DI determinations personnel in each district office.
Rep. Weaver.
10. Remove elements in the DI program which operate as incentives to come on the rolls; there is a need for incentives to move people back into productive activity.
National Retired Teachers Association/American Association of Retired Persons.

11. Administration of the DI program.
 - a. Make the administration of the program more uniform.
National Retired Teachers Association/American Association of Retired Persons.
 - b. Specialization is needed among disability examiners.
William K. DuKate.
 - c. More guidance in vocational review is needed.
William K. DuKate.
 - d. Hire SSA managers GS-14 and above on a contractual basis.
William K. DuKate.
 - e. Hearing assistants in BHA should receive a higher grade based on the complexity of the work performed.
American Federation of Government Employees.

XIV. Annual Reporting; More Frequent Deposits

- A. Supports annual reporting provisions of H.R. 8057 because the result will be savings for both government and business.
American Retail Federation; Rep. Horton; Council of State Chambers of Commerce.
- B. Opposed to extending annual reporting of wages to State and local governments.
Wisconsin Department of Employee Trust Funds; Missouri Department of Employment Security; Interstate Conference of Employment Security Agencies; Mississippi Public Employees' Retirement System; National Conference of State Social Security Administrators; New Jersey Division of Pensions.
 1. Quarterly wage data is needed for administering unemployment compensation program.
Missouri Department of Employment Security; Interstate Conference of Employment Security Agencies; National Conference of State Social Security Administrators.
 2. Administrative costs will be substantially increased.
Missouri Department of Employment Security; Interstate Conference of Employment Security Agencies; Mississippi Public Employees' Retirement System; New Jersey Division of Pensions.
 3. Difficulties which arise from the complexity of coverage within State and local jurisdictions will be compounded by annual reporting due to the long lag of discovering and correcting errors in the reporting of name, wage, and number data.
Missouri Department of Employment Security; Wisconsin Department of Employee Trust Funds; National Conference of State Social Security Administrators.
- C. Opposed to regulations which would require the States to make more frequent deposits of social security tax money.
Mississippi Public Employees' Retirement System; National Conference of State Social Security Administrators; New Jersey Division of Pensions.
 1. Will be very costly to the States.
National Conference of State Social Security Administrators; New Jersey Division of Pensions.
 2. Will require changes in State and local administration.
National Conference of State Social Security Administrators.

XV. Administration

- A. SSA should be an independent, nonpolitical agency.
American Federation of Labor and Congress of Industrial Organizations; National Council on the Aging, Inc.

Specific comments

1. The governing board should consist of representatives from labor, management, and government, appointed by the President, and confirmed by the Senate, with no more than 3 members from one political party.

American Federation of Labor and Congress of Industrial Organizations.

2. SSA has a broad scope of responsibilities; DHEW is politicized; separation would highlight the difference between welfare and social insurance.

National Council on the Aging, Inc.

3. Separate the trust funds from the unified budget.

American Federation of Labor and Congress of Industrial Organizations.

4. The Board of Trustees of the Social Security Administration should be nonpartisan and include two nongovernmental persons.

Wilbur J. Cohen.

B. Other proposals.

1. Extend the date of the next Advisory Council's final report since it has not yet been appointed.

Wilbur J. Cohen.

2. Remove nonretirement functions from SSA.

Rep. Panetta; Prof. Zeckhauser.

3. Study actuarial assumptions and projections every five years and report the study formally to the Congress.

American Society of Personnel Administration

4. A thorough review and restructuring of the social security system is needed.

American Society of Personnel Administration; National Retired Teachers Association/American Association of Retired Persons.

5. Put Railroad Retirement Board transfer of funds interchange with SSA on a current basis because existing 18-month lag causes them cash-flow problems.

Association of American Railroads/National Railway Labor Conference.

6. Create a National Commission on Social Security to do a comprehensive study of the present social security program and to attempt to find viable alternatives.

Rep. Levitas.

7. Each revision of the social security laws should be preceded by a family impact statement.

American Home Economics Association.

XVI. Miscellaneous

A. Private pensions.

1. Strengthen and expand private pension programs.

Machinery and Allied Products Institute; Rep. Panetta.

2. There should be an option to allow employees to establish private pension plans and deduct the cost from their social security taxes.

Machinery and Allied Products Institute.

3. Expand programs equivalent to the Keogh and independent retirement account plans.

Hewitt Associates; Prof. Zeckhauser.

4. Supports Ralph Nader's proposals for private pensions.

Mountain Plains Congress of Senior Organizations

B. Supports adoption of H.R. 3363 to remedy the inequity in the collection of duplicate taxes under the social security program and under the unemployment insurance program for certain concurrent employers of the same employee.

Robert J. Myers.

C. Supports adoption of H.R. 4646 to require SSA to issue social security cards which cannot be forged or duplicated, to be the sole identifier of eligibility to work in this country.

Rep. B. F. Sisk.

D. If the regular delivery date for a social security check falls on a Saturday, Sunday, or legal holiday, then the check should be delivered instead on the first regularly scheduled business date before (H.R. 2978).

Rep. David L. Cornwell.

E. Eliminate the provision in P.L. 84-881 which requires that a retired military person receive a mandatory reduction of his civil service annuity at age 62 when eligible for the reduced social security benefit whether applied for or not.

National Association for Uniformed Services.

F. Expedite the replacement of lost, stolen, or undelivered checks.

Rep. Lott; Rep. Seiberling.

G. Allow adopted children to qualify for benefits without regard to certain time requirements.

Rep. Lott.

XVII. Proposals for Restructuring and Financing the Social Security System

A. Proposals for two-tiered systems with a basic flat rate benefit to all retired persons regardless of earnings records plus a social security benefit related strictly to contributions.

Hewitt Associates; National Federation of Independent Business; Townsend Foundation.

B. Proposals to replace social security with a universal private trust system.

Liberty Lobby; William L. Shepherd, Sr., of Air-A-plane Corp.

C. Financing proposals.—Levy a 1-percent tax on everything to finance a social security system which would give an old-age payment to everyone regardless of earnings or need.

A. Van Hooijdonk.

H. R. 8490

[Report No. 95-618]

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 1977

Mr. OTTINGER (for himself, Mr. HOLLAND, Mr. MIKVA, and Mr. COTTER) introduced the following bill; which was referred to the Committee on Ways and Means

SEPTEMBER 22, 1977

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend chapter 21 of the Internal Revenue Code of 1954 to clarify, extend, and facilitate compliance with the recently enacted provisions relating to social security coverage for employees of nonprofit organizations which failed to file certificates providing coverage for such employees but which nevertheless treated such employees as having such coverage.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) section 3121(k)(5) of the Internal Revenue
4 Code of 1954 (relating to constructive filing of certificate
5 where refund or credit has been made and new certificate
6 is not filed) is amended—

7 (1) by striking out “prior to the expiration of 180
8 days after the date of the enactment of this paragraph,”

1 in subparagraph (B) and inserting in lieu thereof "prior
2 to January 1, 1978,"; and

3 (2) by striking out "the 181st day after the date
4 of the enactment of this paragraph," and "such 181st
5 day" in the matter following subparagraph (B) and
6 inserting in lieu thereof in each instance "January 1,
7 1978,".

8 (b) Section 3121 (k) (7) of such Code (relating to
9 payment of both employee and employer taxes for retro-
10 active period by organization in cases of constructive filing)
11 is amended—

12 (1) by striking out "prior to the expiration of 180
13 days after the date of the enactment of this paragraph"
14 and inserting in lieu thereof "prior to January 1,
15 1978,";

16 (2) by striking out "the 181st day after such
17 date," and inserting in lieu thereof "January 1, 1978,";
18 and

19 (3) by striking out "prior to the first day of the
20 calendar quarter in which such 181st day occurs" and
21 inserting in lieu thereof "prior to that date".

22 (c) Section 3121 (k) (8) of such Code (relating to
23 extended period for payment of taxes for retroactive cover-
24 age) is amended—

25 (1) by striking out "by the end of the 180-day

1 period following the date of the enactment of this
2 paragraph” and inserting in lieu thereof “prior to
3 January 1, 1978,”;

4 (2) by striking out “within that period” and
5 inserting in lieu thereof “prior to January 1, 1978”;
6 and

7 (3) by striking out “on the 181st day following
8 that date” and inserting in lieu thereof “on that date”.

9 SEC. 2. (a) Section 3121(k)(4) of the Internal
10 Revenue Code of 1954 (relating to constructive filing of
11 certificate where no refund or credit of taxes has been made)
12 is amended by adding at the end thereof the following new
13 subparagraph:

14 “(C) In the case of any organization which is
15 deemed under this paragraph to have filed a valid
16 waiver certificate under paragraph (1), if—

17 “(i) the period ~~during which~~ *with respect to*
18 *which* the taxes imposed by sections 3101 and
19 3111 were paid by such organization (as de-
20 scribed in subparagraph (A)(ii)) terminated
21 prior to October 1, 1976, or

22 “(ii) the taxes imposed by sections 3101
23 and 3111 were not paid during the period re-
24 ferred to in clause (i) (whether such period has
25 terminated or not) with respect to

1 individuals who became its employees after the
2 remuneration paid by such organization to
3 individuals who became its employees after the
4 close of the calendar quarter in which such
5 period began; no taxes under sections 3101
6 and 3111 which remain unpaid on the date
7 of the enactment of this subparagraph shall
8 be due or payable with respect to any
9 remuneration paid by such organization to
10 its employees for service performed on or after
11 the first day of the period referred to in clause
12 (i) and before July 1, 1977; and the certifi-
13 cate which such organization is deemed under
14 this paragraph to have filed shall not apply to
15 any service with respect to the remuneration
16 for which the taxes imposed by section 3101
17 and 3111 (and remaining unpaid on the date
18 of the enactment of this subparagraph) are not
19 due and payable by reason of the preceding
20 provisions of this subparagraph.”.

21 *remuneration paid by such organization to indi-*
22 *viduals who became its employees after the close*
23 *of the calendar quarter in which such period*
24 *began,*

25 *no taxes under sections 3101 and 3111 (described*

1 *in clause (i) or (ii)) which remain unpaid on the*
2 *date of the enactment of this subparagraph shall be*
3 *due or payable with respect to any remuneration*
4 *paid by such organization to its employees for serv-*
5 *ice performed on or after the first day of the period*
6 *referred to in clause (i) and before July 1, 1977;*
7 *and the certificate which such organization is deemed*
8 *under this paragraph to have filed shall not apply to*
9 *any service with respect to the remuneration for*
10 *which the taxes imposed by sections 3101 and 3111*
11 *(and remaining unpaid on the date of the enact-*
12 *ment of this subparagraph) are not due and pay-*
13 *able by reason of the preceding provisions of this*
14 *subparagraph. In applying this subparagraph for*
15 *purposes of title II of the Social Security Act, the*
16 *period during which reports of wages subject to the*
17 *taxes imposed by sections 3101 and 3111 were*
18 *made by any organization may be conclusively*
19 *treated as the period (described in subparagraph*
20 *(A)(ii)) during which the taxes imposed by such*
21 *sections were paid by such organization.”.*

22 (b) Section 3121 (k) (4) (A) of such Code is amended
23 by inserting “(subject to subparagraph (C))” after “effec-
24 tive” in the matter following clause (ii).

1 (c) Section 3121 (k) (6) of such Code (relating to
2 application of certain provisions to cases of constructive
3 filing) is amended by inserting “(except as provided in
4 paragraph (4) (C))” after “services involved” in the matter
5 preceding subparagraph (A).

6 SEC. 3. In any case where—

7 (1) an individual performed service, as an employee
8 of an organization which is deemed under section 3121
9 (k) (4) of the Internal Revenue Code of 1954 to have
10 filed a waiver certificate under section 3121 (k) (1) of
11 such Code, on or after the first day of the applicable
12 period described in subparagraph (A) (ii) of such sec-
13 tion 3121 (k) (4) and before July 1, 1977; and

14 (2) the service so performed does not constitute
15 employment (as defined in section 210 (a) of the Social
16 Security Act and section 3121 (b) of such Code)
17 because the waiver certificate which the organization
18 is deemed to have filed is made inapplicable to such
19 service by section 3121 (k) (4) (C) of such Code, but
20 would constitute employment (as so defined) in the
21 absence of such section 3121 (k) (4) (C),
22 the remuneration paid for such service shall, upon the request
23 of such individual (filed on or before April 15, 1980, in such
24 manner and form, and with such official, as may be pre-
25 scribed by regulations made under title II of the Social Secu-

1 rity Act) accompanied by full payment of all of the taxes
2 which would have been paid under section 3101 of such
3 Code with respect to such remuneration but for such section
4 3121 (k) (4) (C) (or by satisfactory evidence that appropri-
5 ate arrangements have been made for the payment of such
6 taxes in installments as provided in section 3121 (k) (8) of
7 such ~~Code~~ Code), be deemed to constitute remuneration for
8 employment as so defined. In any case where remuneration
9 paid by an organization to an individual is deemed under
10 the preceding sentence to constitute remuneration for
11 employment, such organization shall be liable (notwith-
12 standing any other provision of such Code) for payment of
13 the taxes which it would have been required to pay under
14 section 3111 of such Code with respect to such remuneration
15 in the absence of such section 3121 (k) (4) (C).

16 SEC. 4. Section 3121 (k) (8) of the Internal Revenue
17 Code of 1954 (relating to extended period for payment of
18 taxes for retroactive coverage), as amended by subsection
19 (c) of the first section of this Act, is amended to read as
20 follows:

21 “(8) EXTENDED PERIOD FOR PAYMENT OF TAXES
22 FOR RETROACTIVE COVERAGE.—Notwithstanding any
23 other provision of this title, in any case where—

24 “(A) an organization is deemed under para-
25 graph (4) to have filed a valid waiver certificate

1 under paragraph (1), but the applicable period
2 described in paragraph (4) (A) (ii) has terminated
3 and part or all of the taxes imposed by sections 3101
4 and 3111 with respect to remuneration paid by such
5 organization to its employees after the close of such
6 period remains payable notwithstanding paragraph
7 (4) (C), or

8 “(B) an organization described in paragraph
9 (5) (A) files a valid waiver certificate under para-
10 graph (1) by December 31, 1977, as described in
11 paragraph (5) (B), or (not having filed such a cer-
12 tificate by that date) is deemed under paragraph
13 (5) to have filed such a certificate on January 1,
14 1978, or

15 “(C) an individual files a request under section
16 3 of Public Law 94-563, or under section 3 of the
17 Act which added paragraph (4) (C) of this sub-
18 section, to have service treated as constituting
19 remuneration for employment (as defined in section
20 3121 (b) and in section 210 (a) of the Social
21 Security Act),

22 the taxes due under sections 3101 and 3111 with respect
23 to services constituting employment by reason of such
24 certificate for any period prior to the first day of the

1 calendar quarter in which the date of such filing or con-
2 structive filing occurs, or with respect to service consti-
3 tuting employment by reason of such request, may be
4 paid in installments over an appropriate period of time,
5 as determined under regulations prescribed by the Secre-
6 tary, rather than in a lump sum.”.

7 SEC. 5. The first sentence of section 3 of Public Law 94-
8 563 (in the matter following paragraph (3)) is amended—

9 (1) by inserting “on or before April 15, 1980,”
10 after “filed”; and

11 (2) by inserting “(or by satisfactory evidence that
12 appropriate arrangements have been made for the repay-
13 ment of such taxes in installments as provided in sec-
14 tion 3121 (k) (8) of such Code” after “so refunded
15 or credited”.

16 SEC. 6. Section 3121 (k) (4) (A) (i) of the Internal
17 Revenue Code of 1954 (relating to constructive filing of
18 certificate where no refund or credit of taxes has been made)
19 is amended by striking out “or any subsequent date” and
20 inserting in lieu thereof “(or, if later, as of the earliest date
21 on which it satisfies clause (ii) of this subparagraph.)”.

22 SEC. 7. The amendments made by the first two sections
23 of this Act and by sections 4, 5, and 6 shall be effective as
24 though they had been included as a part of the amendments

1 made to section 3121 (k) of the Internal Revenue Code of
2 1954 by the first section of Public Law 94-563 (or, in the
3 case of the amendments made by section 5, as a part of sec-
4 tion 3 of such Public Law).

Union Calendar No. 324

95TH CONGRESS
1ST SESSION

H. R. 8490

[Report No. 95-618]

A BILL

To amend chapter 21 of the Internal Revenue Code of 1954 to clarify, extend, and facilitate compliance with the recently enacted provisions relating to social security coverage for employees of nonprofit organizations which failed to file certificates providing coverage for such employees but which nevertheless treated such employees as having such coverage.

By Mr. OTTINGER, Mr. HOLLAND, Mr. MIKVA,
and Mr. COTTER

JULY 22, 1977

Referred to the Committee on Ways and Means

SEPTEMBER 22, 1977

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

COVERAGE FOR EMPLOYEES OF CERTAIN NONPROFIT
ORGANIZATIONS

SEPTEMBER 22, 1977.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 8490]

The Committee on Ways and Means, to whom was referred the bill (H.R. 8490) to amend chapter 21 of the Internal Revenue Code of 1954 to clarify, extend, and facilitate compliance with the recently enacted provisions relating to social security coverage for employees of nonprofit organizations which failed to file certificates providing coverage for such employees but which nevertheless treated such employees as having such coverage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 3, line 17, strike out "during which" and insert in lieu thereof "with respect to which".

Page 4, strike out lines 1 through 19 and insert in lieu thereof the following:

remuneration paid by such organization to individuals who became its employees after the close of the calendar quarter in which such period began, no taxes under sections 3101 and 3111 (described in clause (i) or (ii)) which remain unpaid on the date of the enactment of this subparagraph shall be due or payable with respect to any remuneration paid by such organization to its employees for service performed on or after the first day of the period referred to in clause (i) and before July 1, 1977; and the certificate which such organization is deemed under this paragraph to have filed shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 (and remaining unpaid on the date of the enactment of this subparagraph) are not due and pay-

able by reason of the preceding provisions of this subparagraph. In applying this subparagraph for purposes of title II of the Social Security Act, the period during which reports of wages subject to the taxes imposed by sections 3101 and 3111 were made by any organization may be conclusively treated as the period (described in subparagraph (A) (ii)) during which the taxes imposed by such sections were paid by such organization.”.

Page 6, line 4, strike out “Code” and insert in lieu thereof “Code)”.
Page 8, line 17, strike out the period immediately following “subparagraph”.

PURPOSE OF THE BILL

The purpose of the bill is to correct an unforeseen and unintended effect of the constructive waiver provisions of Public Law 94-563, as a result of which many nonprofit organizations have incurred a substantial amount of retroactive FICA tax liability. The bill provides relief to those organizations that fail within the constructive waiver provisions of section 3121(k) (4) of the Code, but that terminated their FICA tax contributions without receiving a proper refund for the taxes previously paid. The bill forgives the sections 3101 and 3111 tax liabilities of such organizations outstanding through June 30, 1977, and insures that the employees who would lose quarterly wage credits through this forgiveness may obtain social security coverage for those periods if the matching employer-employee contributions are made.

GENERAL DISCUSSION

BACKGROUND

Services performed in the employ of a religious, charitable or other organization that is exempt from income taxes under section 501(c) (3) of the Internal Revenue Code are excluded from social security coverage, unless the employing organization files a certificate provided for under section 3121(k) of the Code waiving its exemption from social security taxes together with a list of current employees who concur in the filing of such certificate. Thereafter, social security coverage and tax liability attach to those listed employees and all employees subsequently hired by the organization.

It was discovered during the 94th Congress that a substantial number of nonprofit organizations had been paying social security taxes although not formally in compliance with the waiver procedure. Some organizations had in fact demanded and obtained large scale refunds and caused retroactive elimination of their employees' social security coverage. To foreclose abuse of the program, Congress enacted Public Law 94-563 which provides, in effect, for constructive filing of waiver certificates in certain instances where taxes were paid.

Public Law 94-563 dealt with the organizations differently depending on whether they had withdrawn from improperly established coverage and had obtained a refund (or tax credit) prior to September 9, 1976. Organizations that had obtained a refund were given a six-month period (which ended April 18, 1977) to file an actual waiver

certificate together with a list of employees who wished to have their coverage reinstated. Refunded taxes with respect to those employees only would have to be repaid and they could be repaid through an installment arrangement. Failure to file a waiver certificate within the six-month period resulted in a deemed filing of such a certificate and liability on the part of the employer for the payment of both employer and employee taxes due for the retroactive period.

Organizations which had not obtained a refund prior to September 9, 1976 were simply deemed by Public Law 94-563 to have filed a valid waiver certificate covering all employees with respect to whom taxes had been paid. No special provisions for the exclusion of their employees or repayment of their retroactive tax liability were included in Public Law 94-563 since it was assumed that such organizations would generally be current in their social security tax payments and that they had simply been unaware that they were exempt from the social security tax requirements.

The unpaid retroactive taxes due under sections 3101 and 3111 by operation of section 3121(k)(4)(A) have been estimated by the Department of the Treasury at approximately 2.5 million dollars. Where the retroactive taxes have never been collected by the government, the outstanding sums do not represent a revenue reduction from current fiscal year 1978 estimates.

NEED FOR LEGISLATION

There is a group of organizations that was not well addressed by last year's legislation. These are organizations that paid social security taxes for some period prior to learning of their failure to file a valid waiver certificate. Instead of requesting a refund of incorrectly paid taxes, these organizations merely terminated payments. Last year's legislation deems these organizations to have filed a constructive waiver with respect to employees for whom they previously paid social security taxes and requires them to pay social security taxes for the retroactive period from the time they stopped paying them. Moreover, the law does not allow them the option of paying this newly created past liability in installments. There exists as well a substantial liability for social security taxes for all employees hired after the "deemed-filing" date.

Similarly affected by Public Law 94-563 are certain nonprofit organizations that terminated social security payments and sought a refund but did not receive that refund until after September 8, 1976. Those organizations became, by operation of last year's bill, liable for repayment of the refund and for social security taxes on the wages of their employees for the period dating from their termination.

Your committee has learned in addition, that a large number of affected organizations qualifying for treatment under section 3121(k)(5) did not meet the filing date in the original law, in large part due to misunderstanding and confusion with respect to their obligations and liabilities under the provisions of Public Law 94-563. It has also come to your committee's attention that some parties are attempting to interpret the closing words of section 3121(k)(4)(A)(i) to mean that filing a waiver certificate on a date subsequent to the date of enactment of Public Law 94-563 would exclude them from the applica-

tion of the provisions of the Code added by that law. Such an interpretation entirely subverts the intent of Congress in enacting Public Law 94-563 and your committee included in the bill clarifying language that would prohibit such a construction of this provision.

PROVISIONS OF THE BILL

The bill would provide that nonprofit organizations that ceased paying social security taxes on earnings of their employees before October 1, 1976, without receiving a refund of social security taxes they had paid in the past, would not be liable for any unpaid social security taxes from the time that such taxes ceased to be paid through June 30, 1977.

Those organizations that received refunds or credits of taxes after September 8, 1976, would, under the provision of your committee's bill, be treated the same as those organizations that had ceased paying social security taxes. Thus, such organizations would not be liable for taxes on their employees' services prior to June 30, 1977, for which they received refunds.

Under the provisions of your committee's bill, no social security credits would be given to employees for services rendered during the period for which social security taxes would be forgiven by the bill. The bill provides, however, that a worker for whom taxes were paid in the past may file a claim by April 15, 1980 to have the taxes for the non-payment period paid and receive social security credit for such period.

The bill would also extend until December 31, 1977 the period during which those organizations that had received a refund or credit of social security taxes could file an actual waiver certificate to cover their employees under social security. Under Public Law 94-563 this period expired on April 18, 1977.

MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was ordered reported by voice vote.

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of an investigation conducted by the Subcommittee on Social Security, your committee concluded that it would be desirable to enact legislation to alleviate the unforeseen and unintended effects of the retroactive coverage provisions of Public Law 94-563 on certain nonprofit organizations that terminated their FICA tax payments without receiving a proper refund for the erroneously paid taxes.

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, your committee was advised by the Director of the Congressional Budget Office that whereas the retroactive taxes waived by the bill were never collected the waiver does not represent a revenue reduction from current fiscal year 1978 estimates. Fur-

ther, the exclusion of social security wage credits for the periods when no contributions were made represents no increase in costs to the system, and for these reasons, no additional costs will result from the enactment of this bill.

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the following statement is made. Enactment of H.R. 8490 would not result in any new budget authority or increased tax expenditures.

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, your committee states that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, your committee states that this bill would not have any inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the costs of the bill. The enactment of H.R. 8490 would not add to the cost of the social security program. No wage credits would attach to the earnings records of employees of the nonprofit organizations provided relief by section 2 of the bill.

SECTION-BY-SECTION ANALYSIS OF H.R. 8490

Sections 1 (a), (b) and (c) of the bill amends sections 3121(k) (5), (7) and (8) of the Internal Revenue Code of 1954 to extend the time for filing actual waiver certificates and lists of concurring employees by nonprofit organizations that received refunds or credits of taxes of erroneously paid FICA taxes prior to September 9, 1976.

Section 2(a) of the bill, as amended, amends section 3121(k) (4) of the Code by adding new subparagraph (C). The new subparagraph deals specifically with nonprofit organizations that did not receive a proper refund prior to September 9, 1976 and were deemed under this section to have filed a valid waiver certificate. Section 2(a) of the bill provides that if the period (defined in section 3121 as the period within the statutory time limitation of the Act dating back from the enactment of Public Law 94-563) during which the organization paid the FICA taxes terminated prior to October 1, 1976, or, regardless of whether that period terminated or not, if the organization hired new employees after the close of the calendar quarter in which that period began and did not make FICA tax payments with respect to those new employees, then the taxes otherwise due under sections 3101 and 3111, to the extent remaining unpaid on the date of enactment of this new subparagraph, would be forgiven. Nonprofit organizations that received a requested refund after September 8, 1976 would be considered organizations not in receipt of a proper refund and would qualify for treatment under the new subparagraph.

Section 2(b) of the bill amends section 3121(k) (4) (A) to provide that the provisions of that section shall be subject to the new subparagraph (C) added by section 2(a) of the bill.

Section 2(c) of the bill amends section 3121(k)(6) to provide qualifying language with respect to the addition of new subparagraph (C) of section 3121(k)(4).

Section 3 of the bill provides that in instances where a nonprofit organization is deemed to have filed a waiver certificate but the services performed during the period within the purview of Public Law 94-563 are not covered by reason of the forgiveness provision of new subparagraph (4)(C), the wages of the employee performing such services during that period shall be credited upon the request of the employee. Section 3 of the bill provides an April 15, 1980 deadline for the filing of the request, to be accompanied by full payment of all taxes that would have been due but for section 3121(k)(4)(C), or by satisfactory evidence of appropriate installment arrangements of the same. In any case where such credits for this period attach, the employing nonprofit organization shall be liable for the section 3111 taxes that likewise would have been due.

Section 4 of the bill amends section 3121(k)(8) of the Code to expand the application of its extended payment of retroactive coverage taxes provisions. The amended section 3121(k)(8) would provide installment payment arrangements in the following circumstances:

(1) Nonprofit organizations deemed covered under paragraph (4)(A) with an outstanding FICA tax liability resulting therefrom, notwithstanding new subparagraph (4)(C);

(2) Properly refunded nonprofit organizations who file valid waiver certificates under paragraph (5)(A), or are deemed covered by failure to have filed such a certificate by December 31, 1977 pursuant to paragraph (5)(B);

(3) Individuals filing requests under section 3 of this bill for the purpose of obtaining social security wage credits.

Section 5 of the bill makes conforming changes in section 3 of public Law 94-563, for the purpose of harmonizing that prior legislation with the new time limit of April 15, 1980 for filing employee requests for the crediting of wage reports which would be provided in section 3 of this bill.

Section 6 of the bill is clarifying amendment to section 3121(k)(4)(A) of the Code and is provided in the bill solely for the purpose of substituting language that will more clearly state the original intent of Congress in enacting Public Law 94-563. The amendment provided in section 6 of the bill is in no way intended to alter the original purport of existing law. As amended, the language in this paragraph would continue to provide that in cases where a nonprofit organization fails to file a valid waiver certificate and after enactment of the provision satisfies the requirement of paying FICA taxes for three consecutive calendar quarters extending within the statutory time limitations of Public Law 94-563, that organization would be deemed constructively to have filed a waiver certificate effective from the first day that three quarters commenced.

Section 7 of the bill provides that sections 1, 2 and 4 through 6 of this bill shall be effective as though they had been included as part of the amendments made by the first section of Public Law 94-563 (or, in the case of the amendments made by section 5, as a part of section 3 of such Public Law).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman) :

INTERNAL REVENUE CODE OF 1954

* * * * *

**CHAPTER 21—FEDERAL INSURANCE
CONTRIBUTIONS ACT**

* * * * *

Subtitle C—Employment Taxes

* * * * *

Subchapter C—General Provisions

* * * * *

SEC. 3121. DEFINITIONS.

(a) * * *

* * * * *

(k) **EXEMPTION OF RELIGIOUS, CHARITABLE, AND CERTAIN OTHER ORGANIZATIONS.—**

(1) **WAIVER OF EXEMPTION BY ORGANIZATION.—**

(A) An organization described in section 501(c)(3) which is exempt from income tax under section 501(a) may file a certificate (in such form and manner, and with such official, as may be prescribed by regulations made under the chapter) certifying that it desires to have the insurance system established by title II of the Social Security Act extended to service performed by its employees. Such certificate may be filed only if it is accompanied by a list containing the signature, address, and social security account number (if any) of each employee (if any) who concurs in the filing of the certificate. Such list may be amended at any time prior to the expiration of the twenty-fourth month following the calendar quarter in which the certificate is filed by filing with the prescribed official a supplemental list or lists containing the signature, address, and social security account number (if any) of each additional employee who concurs in the filing of the certificate. The list and any supplemental list shall be filed in such form and manner as may be prescribed by regulations made under this chapter.

(B) The certificate shall be in effect (for purposes of subsection (b)(8)(B) and for purposes of section 210(a)(8)(B)

of the Social Security Act) for the period beginning with whichever of the following may be designated by the organization:

(i) the first day of the calendar quarter in which the certificate is filed,

(ii) the first day of the calendar quarter succeeding such quarter, or

(iii) the first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may be earlier than the first day of the twentieth calendar quarter preceding the quarter in which such certificate is filed.

(C) In the case of service performed by an employee whose name appears on a supplemental list filed after the first month following the calendar quarter in which the certificate is filed, the certificate shall be in effect (for purposes of subsection (b) (8) (B) and for purposes of section 210(a) (8) (B) of the Social Security Act) only with respect to service performed by such individual for the period beginning with the first day of the calendar quarter in which such supplemental list is filed.

(D) The period for which a certificate filed pursuant to this subsection or the corresponding subsection of prior law is effective may be terminated by the organization, effective at the end of a calendar quarter, upon giving 2 years' advance notice in writing, but only if, at the time of the receipt of such notice, the certificate has been in effect for a period of not less than 8 years. The notice of termination may be revoked by the organization by giving, prior to the close of the calendar quarter specified in the notice of termination, a written notice of such revocation. Notice of termination or revocation thereof shall be filed in such form and manner, and with such official, as may be prescribed by regulations made under this chapter.

(E) If an organization described in subparagraph (A) employs both individuals who are in positions covered by a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof and individuals who are not in such positions, the organization shall divide its employees into two separate groups. One group shall consist of all employees who are in positions covered by such a fund or system and (i) are members of such fund or system, or (ii) are not members of such fund or system but are eligible to become members thereof, and the other group shall consist of all remaining employees. An organization which has so divided its employees into two groups may file a certificate pursuant to subparagraph (A) with respect to the employees in either group, or may file a separate certificate pursuant to such subparagraph with respect to employees in each group.

(F) If a certificate filed pursuant to this paragraph is effective for one or more calendar quarters prior to the quarter in which the certificate is filed, then—

(i) for purposes of computing interest and for purposes of section 6651 (relating to addition to tax for failure to file tax return or pay tax), the due date for the return and payment of the tax for such prior calendar quarters resulting from the filing of such certificate shall be the last day of the calendar month following the calendar quarter in which the certificate is filed; and

(ii) the statutory period for the assessment of such tax shall not expire before the expiration of 3 years from such due date.

(2) **TERMINATION OF WAIVER PERIOD BY SECRETARY.**—If the Secretary finds that any organization which filed a certificate pursuant to this subsection or the corresponding subsection of prior law has failed to comply substantially with the requirements applicable with respect to the taxes imposed by this chapter or the corresponding provisions of prior law or is no longer able to comply with the requirements applicable with respect to the taxes imposed by this chapter, the Secretary shall give such organization not less than 60 days' advance notice in writing that the period covered by such certificate will terminate at the end of the calendar quarter specified in such notice. Such notice of termination may be revoked by the Secretary by giving, prior to the close of the calendar quarter specified in the notice of termination, written notice of such revocation to the organization. No notice of termination or of revocation thereof shall be given under this paragraph to an organization without the prior concurrence of the Secretary of Health, Education, and Welfare.

(3) **NO RENEWAL OF WAIVER.**—In the event the period covered by a certificate filed pursuant to this subsection or the corresponding subsection of prior law is terminated by the organization, no certificate may again be filed by such organization pursuant to this subsection.

(4) **CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.**—

(A) In any case where—

(i) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph [or any subsequent date] (or, if later, as of the earliest date on which it satisfies clause (ii) of this subparagraph) but

(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B)(i)) of not less than three consecutive calendar quarters,

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b) (8) (B) and section 210(a) (8) (B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective (*subject to paragraph (C)*) on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

(B) Subparagraph (A) shall not apply with respect to any organization if—

(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c) (1) (B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c) (1) (B) of the Social Security Act) immediately preceding the date of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976.

(C) *In the case of any organization which is deemed under this paragraph to have filed a valid waiver certificate under paragraph (1), if—*

(i) the period with respect to which the taxes imposed by sections 3101 and 3111 were paid by such organization (as described in subparagraph (A) (ii)) terminated prior to October 1, 1976, or

(ii) the taxes imposed by sections 3101 and 3111 were not paid during the period referred to in clause (i) (whether such period has terminated or not) with respect to remuneration paid by such organization to individuals who became its employees after the close of the calendar quarter in which such period began, no taxes under sections 3101 and 3111 (described in clause (i) or (ii)) which remain unpaid on the date of the enactment of this subparagraph shall be due or payable with respect to any remuneration paid by such organization to its employees for service performed on or after the first day of

the period referred to in clause (i) and before July 1, 1977; and the certificate which such organization is deemed under this paragraph to have filed shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 (and remaining unpaid on the date of the enactment of this subparagraph) are not due and payable by reason of the preceding provisions of this subparagraph. In applying this subparagraph for purposes of title II of the Social Security Act, the period during which reports of wages subject to the taxes imposed by sections 3101 and 3111 were made by any organization may be conclusively treated as the period (described in subparagraph (A) (ii)) during which the taxes imposed by such sections were paid by such organization.

(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph (B)(ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4)(A)(ii) was obtained prior to September 9, 1976; and

(B) such organization has not, prior to [the expiration of 180 days after the date of the enactment of this paragraph] *January 1, 1978*, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii)) and which is accompanied by the list described in paragraph (1)(A),

such organization shall be deemed, for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on [the 181st day after the date of the enactment of this paragraph] *January 1, 1978*, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization

on [such 181st day] *January 1, 1978*; shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary.

(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved (*except as provided in paragraph (4)(C)*) shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1), except that—

(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1)(A), and in paragraph (1)(C), shall apply to the extent prescribed by the Secretary;

(B) the provisions of paragraph (1)(E) shall not apply unless the taxes described in paragraph (4)(A)(ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

(C) the action of the organization in obtaining the refund or credit described in paragraph (5)(A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3). Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

(7) BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5)(A) has not filed a valid waiver certificate under paragraph (1) prior [to the expiration of 180 days after the date of the enactment of this paragraph] and is accordingly deemed under paragraph (5) to have filed such a certificate on [the 181st day after such date] *January 1, 1978*, the taxes due under section 3101, with respect to services constituting employment by reason of such certificate for any period prior to [the first day of the calendar quarter in which such 181 day occurs] *that date* (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5)(A)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by the end of the 180-day period following the date of the enactment of this

paragraph as described in paragraph (5) (B), or (not having filed such a certificate within that period) is deemed under paragraph (5) to have filed such a certificate on the 181st day following that date, the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.】

(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—*Notwithstanding any other provision of this title, in any case where—*

(A) an organization is deemed under paragraph (4) to have filed a valid waiver certificate under paragraph (1), but the applicable period described in paragraph (4) (A) (i) has terminated and part or all of the taxes imposed by sections 3101 and 3111 with respect to remuneration paid by such organization to its employees after the close of such period remains payable notwithstanding paragraph (4) (C), or

(B) an organization described in paragraph (5) (A) files a valid waiver certificate under paragraph (1) by December 31, 1977, as described in paragraph (5) (B), or (not having filed such a certificate by that date) is deemed under paragraph (5) to have filed such a certificate on January 1, 1978, or

(C) an individual files a request under section 3 of Public Law 94-563, or under section 3 of the Act which added paragraph (4) (C) of this subsection, to have service treated as constituting remuneration for employment (as defined in section 3121 (b) and in section 210 (a) of the Social Security Act),

the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs, or with respect to service constituting employment by reason of such request, may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary, rather than in a lump sum.

SECTION 3 OF PUBLIC LAW 94-563

AN ACT To amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate.

* * * * *

SEC. 3. In any case where—

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k)(5) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k)(1) of such Code, at any time prior to the period for which such certificate is effective;

(2) the taxes imposed by sections 3101 and 3111 of such Code were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) of such Code had been in effect) prior to September 9, 1976; and

(3) any portion of such service (with respect to which taxes were paid and refunded or credited as described in paragraph (2)) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) of such Code a valid waiver certificate effective as provided in section 3121(k)(5)(B) thereof (with such individual's signature appearing on the accompanying list),

the remuneration paid for the portion of such service described in paragraph (3) shall, upon the request of such individual (filed *on or before April 15, 1980*, in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full repayment of the taxes which were paid under section 3101 of such Code with respect to such remuneration and so refunded or credited (*or by satisfactory evidence that appropriate arrangements have been made for the repayment of such taxes in installments as provided in section 3121(k)(8) of such Code*), be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for repayment of any taxes which it paid under section 3111 of such Code with respect to such remuneration and which were refunded or credited to it.

95TH CONGRESS
1ST SESSION

H. R. 9346

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1977

Mr. ULLMAN introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, with the following table of contents, may be
4 cited as the "Social Security Financing Amendments of
5 1977".

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TITLE II—STABILIZATION OF REPLACEMENT RATES IN THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

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- Sec. 302. Coverage of State and local employees.
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TITLE IV—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

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- Sec. 612. Technical and conforming amendments.

PART C—CONFORMING AMENDMENT TO THE RAILROAD RETIREMENT ACT OF 1974

- Sec. 621. Computation of employee annuities.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Elimination of certain optional payment procedures under the old-age, survivors, and disability insurance program.
- Sec. 702. Early mailing of benefit checks where regularly scheduled delivery day falls on Saturday, Sunday, or legal holiday.
- Sec. 703. Definition.

1 TITLE I—PROVISIONS TO IMPROVE THE FINANC-
2 ING OF THE OLD-AGE, SURVIVORS, AND DIS-
3 ABILITY INSURANCE PROGRAM

4 ADJUSTMENTS IN TAX RATES

5 SEC. 101. (a) (1) Section 3101(a) of the Internal
6 Revenue Code of 1954 (relating to rate of tax on employees
7 for purposes of old-age, survivors, and disability insurance)
8 is amended by striking out paragraphs (1) and (2) and
9 inserting in lieu thereof the following:

10 “(1) with respect to wages received during the
11 calendar years 1974 through 1977, the rate shall be
12 4.95 percent;

13 “(2) with respect to wages received during the
14 calendar years 1978 through 1980, the rate shall be
15 5.10 percent;

16 “(3) with respect to wages received during the
17 calendar years 1981 through 1984, the rate shall be
18 5.25 percent;

19 “(4) with respect to wages received during the
20 calendar years 1985 through 1989, the rate shall be
21 5.55 percent; and

22 “(5) with respect to wages received after Decem-
23 ber 31, 1989, the rate shall be 6.15 percent.”.

24 (2) Section 3111(a) of such Code (relating to rate
25 of tax on employers for purposes of old-age, survivors, and

1 disability insurance) is amended by striking out paragraphs
2 (1) and (2) and inserting in lieu thereof the following:

3 “(1) with respect to wages paid during the cal-
4 endar years 1974 through 1977, the rate shall be 4.95
5 percent;

6 “(2) with respect to wages paid during the cal-
7 endar years 1978 through 1980, the rate shall be 5.10
8 percent;

9 “(3) with respect to wages paid during the calendar
10 years 1981 through 1984, the rate shall be 5.25 percent;

11 “(4) with respect to wages received during the
12 calendar years 1985 through 1989, the rate shall be
13 5.55 percent; and

14 “(5) with respect to wages paid after December 31,
15 1989, the rate shall be 6.15 percent.”.

16 (3) Section 1401 (a) of such Code (relating to rate of
17 tax on self-employment income for purposes of old-age,
18 survivors, and disability insurance) is amended by striking
19 out “a tax” and all that follows and inserting in lieu thereof
20 the following: “a tax as follows:

21 “(1) in the case of any taxable year beginning
22 before January 1, 1978, the tax shall be equal to 7.0
23 percent of the amount of the self-employment income
24 for such taxable year;

25 “(2) in the case of any taxable year beginning

1 after December 31, 1977, and before January 1, 1981,
2 the tax shall be equal to 7.15 percent of the amount of
3 the self-employment income for such taxable year;

4 “(3) in the case of any taxable year beginning
5 after December 31, 1980, and before January 1, 1985,
6 the tax shall be equal to 7.85 percent of the amount of
7 the self-employment income for such taxable year;

8 “(4) in the case of any taxable year beginning after
9 December 31, 1984, and before January 1, 1990, the
10 tax shall be equal to 8.35 percent of the amount of the
11 self-employment income for such taxable year; and

12 “(5) in the case of any taxable year beginning
13 after December 31, 1989, the tax shall be equal to 9.20
14 percent of the amount of the self-employment income
15 for such taxable year.”.

16 (b) (1) Section 3101 (b) of such Code (relating to rate
17 of tax on employees for purposes of hospital insurance) is
18 amended by striking out paragraphs (1) through (4) and
19 inserting in lieu thereof the following:

20 “(1) with respect to wages received during the
21 calendar years 1974 through 1977, the rate shall be
22 0.90 percent;

23 “(2) with respect to wages received during the
24 calendar years 1978 through 1980, the rate shall be
25 0.95 percent;

1 “(3) with respect to wages received during the
2 calendar years 1981 through 1985, the rate shall be
3 1.15 percent; and

4 “(4) with respect to wages received after Decem-
5 ber 31, 1985, the rate shall be 1.30 percent.”.

6 (2) Section 3111 (b) of such Code (relating to rate of
7 tax on employers for purposes of hospital insurance) is
8 amended by striking out paragraphs (1) through (4) and
9 inserting in lieu thereof the following:

10 “(1) with respect to wages paid during the cal-
11 endar years 1974 through 1977, the rate shall be 0.90
12 percent;

13 “(2) with respect to wages paid during the cal-
14 endar years 1978 through 1980, the rate shall be 0.95
15 percent;

16 “(3) with respect to wages paid during the cal-
17 endar years 1981 through 1985, the rate shall be 1.15
18 percent; and

19 “(4) with respect to wages paid after December 31,
20 1985, the rate shall be 1.30 percent.”.

21 (3) Section 1401 (b) of such Code (relating to tax on
22 self-employment income for purposes of hospital insurance)
23 is amended by striking out paragraphs (1) through (4) and
24 inserting in lieu thereof the following:

25 “(1) in the case of any taxable year beginning after

1 December 31, 1973, and before January 1, 1978, the
2 tax shall be equal to 0.90 percent of the amount of the
3 self-employment income for such taxable year;

4 “(2) in the case of any taxable year beginning after
5 December 31, 1977, and before January 1, 1981, the
6 tax shall be equal to 0.95 percent of the amount of the
7 self-employment income for such taxable year;

8 “(3) in the case of any taxable year beginning after
9 December 31, 1980, and before January 1, 1986, the
10 tax shall be equal to 1.15 percent of the amount of the
11 self-employment income for such taxable year; and

12 “(4) in the case of any taxable year beginning after
13 December 31, 1985, the tax shall be equal to 1.30 per-
14 cent of the amount of the self-employment income for
15 such taxable year.”.

16 ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

17 SEC. 102. (a) (1) Section 201 (b) (1) of the Social
18 Security Act is amended by striking out clauses (G)
19 through (J) and inserting in lieu thereof the following:
20 “(G) 1.55 per centum of the wages (as so defined) paid
21 after December 31, 1977, and before January 1, 1981, and
22 so reported, (H) 1.65 per centum of the wages (as so de-
23 fined) paid after December 31, 1980, and before Janu-
24 ary 1, 1985, and so reported, (I) 1.84 per centum of the

1 wages (as so defined) paid after December 31, 1984, and
2 before January 1, 1990, and so reported, and (J) 2.30
3 per centum of the wages (as so defined) paid after Decem-
4 ber 31, 1989, and so reported.”.

5 (2) Section 201 (b) (2) of such Act is amended by
6 striking out clauses (G) through (J) and inserting in lieu
7 thereof the following: “(G) 1.0865 per centum of the
8 amount of self-employment income (as so defined) so re-
9 ported for any taxable year beginning after December 31,
10 1977, and before January 1, 1981, (H) 1.2375 per centum
11 of the amount of self-employment income (as so defined) so
12 reported for any taxable year beginning after December 31,
13 1980, and before January 1, 1985, (I) 1.3800 per centum
14 of the amount of self-employment income (as so defined) so
15 reported for any taxable year beginning after December 31,
16 1984, and before January 1, 1990, and (J) 1.7250 per
17 centum of the amount of self-employment income (as so
18 defined) so reported for any taxable year beginning after
19 December 31, 1989,”.

20 **INCREASES IN EARNINGS BASE**

21 **SEC. 103.** (a) Section 230 (b) of the Social Security
22 Act is amended by striking out “shall be” in the matter
23 preceding paragraph (1) and inserting in lieu thereof “shall
24 (subject to subsection (c)) be”.

1 (b) Section 230 (c) of such Act is amended—

2 (1) by inserting “(1)” immediately before “the
3 ‘contribution and benefit base’”; and

4 (2) by striking out “section.” and inserting in lieu
5 thereof the following:

6 “section, and (2) the ‘contribution and benefit base’ with
7 respect to remuneration paid (and taxable years beginning) —

8 “(A) in 1978 shall be \$17,700,

9 “(B) in 1979 shall be \$20,900,

10 “(C) in 1980 shall be \$24,400, and

11 “(D) in 1981 shall be \$27,900.

12 For purposes of determining under subsection (b) the ‘con-
13 tribution and benefit base’ with respect to remuneration paid
14 (and taxable years beginning) in 1982 and subsequent years,
15 the dollar amounts specified in clause (2) of the preceding
16 sentence shall be considered to have resulted from the applica-
17 tion of such subsection (b) and to be the amount determined
18 (with respect to the years involved) under that subsection.”.

19 (c) (1) The second sentence of section 215 (i) (2) (D)
20 (v) of such Act is amended by striking out “is equal to
21 one-twelfth of the new contribution and benefit base” and
22 inserting in lieu thereof “is equal to, or exceeds by less than
23 \$5, one-twelfth of the new contribution and benefit base”.

24 (2) The third sentence of section 215 (i) (2) (D) (v)
25 of such Act is amended by striking out all that follows

1 "clause (iv)" and inserting in lieu thereof "plus 20 per-
2 cent of the excess of the second figure in the last line of
3 column III as extended under the preceding sentence over
4 such second figure for the calendar year in which the table
5 of benefits is revised."

6 STANDBY GUARANTEE OF TRUST FUND LEVELS

7 SEC. 104. (a) Section 201 of the Social Security Act is
8 amended by adding at the end thereof the following new
9 subsection:

10 "(j) If at the close of any calendar year after 1976
11 the balance remaining in the Federal Old-Age and Survi-
12 vors Insurance Trust Fund or the Federal Disability Insur-
13 ance Trust Fund (as determined by the Secretary of the
14 Treasury in the following February) is less than 25 percent
15 of the total amount of the payments made from such fund
16 under this title during that calendar year, there is hereby
17 appropriated to such fund as of the following July 1 an
18 amount equal to the difference between (1) such balance,
19 and (2) 30 percent of the total amount of such payments.
20 Any amount appropriated to either trust fund under the
21 preceding sentence shall constitute and be treated as a loan
22 to such fund from the general fund of the Treasury, and
23 shall be repaid (by transfer from such fund to the general
24 fund of the Treasury), with accrued interest, in whole or in
25 such part as will not reduce the balance in such fund to less

1 than 25 percent of the total amount of the payments made
2 from such fund under this title during the calendar year
3 involved, on July 1 next succeeding the first subsequent
4 calendar year at the close of which (as determined by the
5 Secretary of the Treasury in the month of February next
6 succeeding that calendar year) the balance remaining in
7 such fund equals or exceeds 40 percent of the total amount
8 of the payments made from such fund under this title during
9 that calendar year. For purposes of the preceding sentence,
10 accrued interest shall be computed on each such loan as if it
11 were an obligation described in the next to last sentence of
12 subsection (d).”

13 (b) Section 1817 of such Act is amended by adding at
14 the end thereof the following new subsection:

15 “(i) If at the close of any calendar year after 1976
16 the balance remaining in the Federal Hospital Insurance
17 Trust Fund (as determined by the Secretary of the Treasury
18 in the following February) is less than 25 percent of the
19 total amount of the payments made from such fund under
20 this title during that calendar year, there is hereby appro-
21 priated to such fund as of the following July 1 an amount
22 equal to the difference between (1) such balance and (2)
23 30 percent of the total amount of such payments. Any
24 amount appropriated to such trust fund under the preceding
25 sentence shall constitute and be treated as a loan to such
26 fund from the general fund of the Treasury, and shall be

1 repaid (by transfer from such fund to the general fund of
 2 the Treasury), with accrued interest, in whole or in such
 3 part as will not reduce the balance in such fund to less than
 4 25 percent of the total amount of the payments made from
 5 such fund under this title during the calendar year in-
 6 volved, on July 1 next succeeding the first subsequent
 7 calendar year at the close of which (as determined
 8 by the Secretary of the Treasury in the month of February
 9 next succeeding that calendar year) the balance remaining
 10 in such fund equals or exceeds 40 percent of the total
 11 amount of the payments made from such fund under this
 12 title during that calendar year. For purposes of the preced-
 13 ing sentence, accrued interest shall be computed on each such
 14 loan as if it were an obligation described in the next to last
 15 sentence of subsection (c).”.

16 EFFECTIVE DATE

17 SEC. 105. The amendments made by sections 101, 102,
 18 and 103 shall apply with respect to remuneration paid or
 19 received, and taxable years beginning, after 1977.

20 TITLE II—STABILIZATION OF REPLACEMENT 21 RATES IN THE OLD-AGE, SURVIVORS, AND 22 DISABILITY INSURANCE PROGRAM

23 COMPUTATION OF PRIMARY INSURANCE AMOUNT

24 SEC. 201. (a) Section 215 (a) of the Social Security
 25 Act is amended to read as follows :

1 “(a) (1) (A) The primary insurance amount of an
2 insured individual shall (except as otherwise provided in this
3 section) be equal to the sum of—

4 “(i) 90 percent of the individual’s average indexed
5 monthly earnings (determined under subsection (b))
6 up to the amount established for purposes of this clause
7 by subparagraph (B),

8 “(ii) 32 percent of the portion of the individual’s
9 average indexed monthly earnings which exceeds the
10 amount established for purposes of clause (i) but does
11 not exceed the amount established for purposes of this
12 clause by subparagraph (B), and

13 “(iii) 15 percent of the individual’s average
14 indexed monthly earnings to the extent that they exceed
15 the amount established for purposes of clause (ii),
16 rounded in accordance with subsection (g), and thereafter
17 increased as provided in subsection (i).

18 “(B) (i) For individuals who initially become eligible
19 for old-age or disability insurance benefits or die in the cal-
20 endar year 1979, the amounts established for purposes of
21 clauses (i) and (ii) of subparagraph (A) shall be \$180
22 and \$1,085, respectively.

23 “(ii) For individuals who initially become eligible for
24 old-age or disability insurance benefits or die in any calendar
25 year after 1979, each of the amounts so established shall

1 equal the product of the corresponding amount established
2 with respect to the calendar year 1979 under clause (i) of
3 this subparagraph and the quotient obtained by dividing—

4 “(I) the average of the total wages (as defined
5 in regulations of the Secretary and computed without
6 regard to the limitations specified in section 209 (a))
7 reported to the Secretary of the Treasury or his delegate
8 for the second calendar year preceding the calendar
9 year for which the determination is made, by

10 “(II) the average of the total wages (as so de-
11 fined and computed) reported to the Secretary of the
12 Treasury or his delegate for the calendar year 1977.

13 “(iii) Each amount established under clause (ii) for
14 any calendar year shall be rounded to the nearest \$1, except
15 that any portion so determined which is a multiple of \$0.50
16 but not of \$1 shall be rounded to the next higher \$1.

17 “(C) (i) No primary insurance amount computed under
18 subparagraph (A) may be less than—

19 “(I) the dollar amount set forth on the first line of
20 column IV in the table of benefits contained in this
21 subsection as in effect in December 1978, rounded (if
22 not a multiple of \$1) to the next higher multiple of \$1,
23 or

24 “(II) an amount equal to \$11.50 multiplied by the
25 individual's years of coverage in excess of 10, or the

1 increased amount determined for purposes of this sub-
2 division under subsection (i),
3 whichever is greater. No increase under subsection (i) shall
4 apply to the dollar amount specified in subdivision (I) of
5 this clause.

6 “(ii) For purposes of clause (i) (II), the term ‘years
7 of coverage’ with respect to any individual means the number
8 (not exceeding 30) equal to the sum of (I) the number
9 (not exceeding 14 and disregarding any fraction) deter-
10 mined by dividing (a) the total of the wages credited to
11 such individual (including wages deemed to be paid prior
12 to 1951 to such individual under section 217, compensation
13 under the Railroad Retirement Act of 1937 prior to 1951
14 which is creditable to such individual pursuant to this title,
15 and wages deemed to be paid prior to 1951 to such individual
16 under section 231) for years after 1936 and before 1951
17 by (b) \$900, plus (II) the number equal to the number of
18 years after 1950 each of which is a computation base year
19 (within the meaning of subsection (b) (2) (B) (ii)) and in
20 each of which he is credited with wages (including wages
21 deemed to be paid to such individual under section 217,
22 compensation under the Railroad Retirement Act of 1937 or
23 1974 which is creditable to such individual pursuant to this
24 title, and wages deemed to be paid prior to 1951 to such
25 individual under section 229) and self-employment income

1 of not less than 25 percent of the maximum amount which,
2 pursuant to subsection (e), may be counted for such year.

3 “(D) In each calendar year after 1978 the Secretary
4 shall publish in the Federal Register, on or before Novem-
5 ber 1, the formula for computing benefits under this para-
6 graph and for adjusting wages and self-employment income
7 under subsection (b) (3) in the case of an individual who
8 becomes eligible for an old-age insurance benefit, or (if
9 earlier) becomes eligible for a disability insurance benefit
10 or dies, in the following year, and the average of the total
11 wages (as described in subparagraph (B) (ii) (I)) on
12 which that formula is based. With the initial publication re-
13 quired by this subparagraph, the Secretary shall also publish
14 in the Federal Register the average of the total wages (as
15 so described) for each calendar year after 1950.

16 “(2) (A) In the case of an individual who was entitled
17 to a disability insurance benefit for any of the 12 months
18 before the month in which he became entitled to an old-age
19 insurance benefit, became reentitled to a disability insurance
20 benefit, or died, the primary insurance amount for determin-
21 ing any benefit attributable to that entitlement, reentitlement,
22 or death is the greater of—

23 “(i) the primary insurance amount upon which such
24 disability insurance benefit was based, increased by the
25 amount of each general benefit increase (as defined in

1 subsection (i) (3)), and each increase provided under
2 subsection (i) (2), that would have applied to such
3 primary insurance amount had the individual remained
4 entitled to such disability insurance benefit until the
5 month in which he became so entitled or reentitled or
6 died, or

7 “(ii) the amount computed under paragraph (1)
8 (C).

9 “(B) In the case of an individual who was entitled to
10 a disability insurance benefit for any month, and with respect
11 to whom a primary insurance amount is required to be com-
12 puted at any time after the close of the period of the indi-
13 vidual’s disability (whether because of such individual’s
14 subsequent entitlement to old-age insurance benefits or to a
15 disability insurance benefit based upon a subsequent period
16 of disability, or because of such individual’s death), the
17 primary insurance amount so computed may in no case be
18 less than the primary insurance amount with respect to
19 which such former disability insurance benefit was most re-
20 cently determined.

21 “(3) (A) Paragraph (1) applies only to an individual
22 who was not eligible for an old-age insurance benefit prior
23 to January 1979 and who in that or any succeeding month—

24 “(i) becomes eligible for such a benefit,

1 “(ii) becomes eligible for a disability insurance
2 benefit, or

3 “(iii) dies,
4 and (except for subparagraph (C) (i) (II) thereof) it ap-
5 plies to every such individual except to the extent otherwise
6 provided by paragraph (4).

7 “(B) For purposes of this title, an individual is deemed
8 to be eligible—

9 “(i) for old-age insurance benefits, for months
10 beginning with the month in which he attains age 62, or

11 “(ii) for disability insurance benefits, for months
12 beginning with the month in which his period of dis-
13 ability began as described in section 216 (i) (2) (C),
14 unless fewer than 12 months have elapsed since the termi-
15 nation of a prior period of disability.

16 “(4) Paragraph (1) (except for subparagraph (C) (i)
17 (II) thereof) does not apply to the computation or re-
18 computation of a primary insurance amount for—

19 “(A) an individual who was eligible for a disability
20 insurance benefit for a month prior to January 1979
21 unless, prior to the month in which occurs the event
22 described in clause (i), (ii), or (iii) of paragraph (3)
23 (A); there occurs a period of at least 12 consecutive

1 months for which he was not entitled to a disability
2 insurance benefit, or

3 “(B) an individual who had wages or self-employ-
4 ment income credited for one or more years prior to
5 1979, and who was not eligible for an old-age or disa-
6 bility insurance benefit, and did not die, prior to January
7 1979, if in the year for which the computation or re-
8 computation would be made the individual’s primary
9 insurance amount would be greater if computed or
10 recomputed—

11 “(i) under section 215(a) as in effect in
12 December 1978, for purposes of old-age insurance
13 benefits in the case of an individual who becomes
14 eligible for such benefits prior to 1989, or

15 “(ii) as provided by section 215(d), in the
16 case of an individual to whom such section applies.

17 In determining whether an individual’s primary insurance
18 amount would be greater if computed or recomputed as pro-
19 vided in subparagraph (B), (I) the table of benefits in
20 effect in December 1978 shall be applied without regard
21 to any increases in that table which may become effective
22 (in accordance with subsection (i) (4)) for years after
23 1978 and prior to the year in which such individual became
24 eligible for an old-age or disability insurance benefit or died,

1 and (II) such individual's average monthly wage shall be
2 computed as provided by subsection (b) (4).

3 " (5) For purposes of computing the primary insurance
4 amount (after December 1978) of an individual to whom
5 paragraph (1) does not apply (other than an individual
6 described in paragraph (4) (B)), this section as in effect
7 in December 1978 shall remain in effect, except that, effec-
8 tive for January 1979, the dollar amount specified in para-
9 graph (3) of subsection (a) shall be increased to \$11.50.
10 The table for determining primary insurance amounts and
11 maximum family benefits contained in this section in Decem-
12 ber 1978 shall be revised as provided by subsection (i) for
13 each year after 1978."

14 (b) Section 215 (b) of such Act is amended to read as
15 follows:

16 "Average Indexed Monthly Earnings; Average Monthly
17 Wage

18 " (b) (1) An individual's average indexed monthly
19 earnings shall be equal to the quotient obtained by dividing—

20 " (A) the total (after adjustment under paragraph
21 (3)) of his wages paid in and self-employment income
22 credited to his benefit computation years (determined
23 under paragraph (2)), by

24 " (B) the number of months in those years.

1 “(2) (A) The number of an individual’s benefit com-
2 putation years equals the number of elapsed years, reduced
3 by five, except that the number of an individual’s benefit
4 computation years may not be less than two.

5 “(B) For purposes of this subsection with respect to
6 any individual—

7 “(i) the term ‘benefit computation years’ means
8 those computation base years, equal in number to the
9 number determined under subparagraph (A), for which
10 the total of such individual’s wages and self-employment
11 income, after adjustment under paragraph (3), is the
12 largest;

13 “(ii) the term ‘computation base years’ means the
14 calendar years after 1950 and before—

15 “(I) in the case of an individual entitled to old-
16 age insurance benefits, the year in which occurred
17 (whether by reason of section 202 (j) (1) or other-
18 wise) the first month of that entitlement; or

19 “(II) in the case of an individual who has
20 died, the year succeeding the year of his death;
21 except that such term excludes any calendar year en-
22 tirely included in a period of disability; and

23 “(iii) the term ‘number of elapsed years’ means
24 (except as otherwise provided by section 104 (j) (2)
25 of the Social Security Amendments of 1972) the num-

1 ber of calendar years after 1950 (or, if later, the year
2 in which the individual attained age 21) and before the
3 year in which the individual died, or, if it occurred
4 after 1960, the year in which he attained age 62; except
5 that such term excludes any calendar year any part of
6 which is included in a period of disability.

7 “(3) (A) Except as provided by subparagraph (B),
8 the wages paid in and self-employment income credited to
9 each of an individual’s computation base years for purposes
10 of the selection therefrom of benefit computation years under
11 paragraph (2) shall be deemed to be equal to the product
12 of—

13 “(i) the wages and self-employment income actually
14 paid in or credited to such year, and

15 “(ii) the quotient obtained by dividing—

16 “(I) the average of the total wages (as defined
17 in regulations of the Secretary and computed with-
18 out regard to the limitations specified in section 209
19 (a)) reported to the Secretary of the Treasury or
20 his delegate for the second calendar year preceding
21 the year of the individual’s death or initial eligibility
22 for an old-age or disability insurance benefit, which-
23 ever is earliest (not counting any year as the year
24 of the individual’s death or eligibility if the indi-
25 vidual was entitled to a disability insurance benefit

1 for any of the 12 months immediately preceding
2 such year), by

3 “(II) the average of the total wages (as so
4 defined and computed) reported to the Secretary
5 of the Treasury or his delegate for the computation
6 base year for which the determination is made.

7 “(B) Wages paid in or self-employment income
8 credited to an individual’s computation base year which—

9 “(i) occurs after the second calendar year specified
10 in subparagraph (A) (ii) (I), or

11 “(ii) is a year treated under subsection (f) (2) (C)
12 as though it were the last year of the period specified in
13 subsection (b) (2) (B) (ii),

14 shall be available for use in determining an individual’s bene-
15 fit computation years, but without applying subparagraph
16 (A) of this paragraph.

17 “(4) For purposes of determining the average monthly
18 wage of an individual whose primary insurance amount is
19 computed (after 1978) under section 215 (a) or 215 (d)
20 as in effect (except with respect to the tables contained
21 therein) in December 1978, by reason of subsection
22 (a) (4) (B), this subsection as in effect in December 1978
23 shall remain in effect, except that paragraph (2) (C) (as
24 then in effect) shall be deemed to provide that ‘computation
25 base years’ include only calendar years in the period after

1 1950 (or 1936, if applicable) and prior to the year in
2 which occurred the first month for which the individual was
3 eligible (as defined in subsection (a) (3) (B) as in effect
4 in January 1979) for an old-age or disability insurance
5 benefit, or died. Any calendar year all of which is included
6 in a period of disability shall not be included as a computa-
7 tion base year for such purposes.”

8 (c) Section 215 (c) of such Act is amended to read
9 as follows:

10 “Application of Prior Provisions in Certain Cases

11 “(c) This subsection as in effect in December 1978
12 shall remain in effect with respect to an individual to whom
13 subsection (a) (1) does not apply by reason of the indi-
14 vidual’s eligibility for an old-age or disability insurance bene-
15 fit, or the individual’s death, prior to 1979.”

16 (d) (1) The matter in the text of section 215 (d) of
17 such Act which precedes paragraph (1) (C) is amended to
18 read as follows:

19 “(d) (1) For purposes of column I of the table appear-
20 ing in subsection (a), as that subsection was in effect in
21 December 1977, an individual’s primary insurance benefit
22 shall be computed as follows:

23 “(A) The individual’s average monthly wage shall be
24 determined as provided in subsection (b), as in effect in
25 December 1977 (but without regard to paragraph (4)

1 thereof), except that for purposes of paragraphs (2) (C)
2 and (3) of that subsection (as so in effect) 1936 shall be
3 used instead of 1950.

4 “(B) For purposes of subparagraphs (B) and (C)
5 of subsection (b) (2) (as so in effect), the total wages
6 prior to 1951 (as defined in subparagraph (C) of this
7 paragraph) of an individual who attained age 21 after 1936
8 and prior to 1951 shall be divided by the number of years
9 (hereinafter in this subparagraph referred to as the ‘divisor’)
10 elapsing after the year in which the individual attained age
11 21 and prior to the earlier of 1951 or the year of the in-
12 dividual’s death. The quotient so obtained shall be deemed
13 to be the individual’s wages credited to each of the years
14 included in the divisor, except that—

15 “(i) if the quotient exceeds \$3,000, only \$3,000
16 shall be deemed to be the individual’s wages for each
17 of years included in the divisor, and the remainder of
18 the individual’s total wages prior to 1951 (I) if less
19 than \$3,000, shall be deemed credited to the year in
20 which the individual attained age 21, or (II) if \$3,000
21 or more, shall be deemed credited, in \$3,000 incre-
22 ments, to the year in which the individual attained age
23 21 and to each year consecutively preceding that year,
24 with any remainder less than \$3,000 being credited to

1 the year immediately preceding the earliest year to
2 which a full \$3,000 increment was credited; and

3 “(ii) no more than \$42,000 may be taken into
4 account, for purposes of this subparagraph, as total
5 wages after 1936 and prior to 1951.”.

6 (2) Section 215(d)(1)(D) of such Act is amended
7 to read as follows:

8 “(D) The individual’s primary insurance benefit
9 shall be 40 percent of the first \$50 of his average
10 monthly wage as computed under this subsection, plus
11 10 percent of the next \$200 of his average monthly
12 wage, increased by 1 percent for each increment year.
13 The number of increment years is the number, not more
14 than 14 nor less than 4, that is equal to the individual’s
15 total wages prior to 1951 divided by \$1,650 (disre-
16 garding any fraction).”.

17 (3) Section 215(d)(3) of such Act is amended (A)
18 by striking out “in the case of an individual” and all that
19 follows and inserting in lieu thereof the following: “in the
20 case of an individual who had a period of disability which
21 began prior to 1951, but only if the primary insurance
22 amount resulting therefrom is higher than the primary in-
23 surance amount resulting from the application of this section

1 (as amended by the Social Security Amendments of 1967)
2 and section 220.”

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

5 “(4) The provisions of this subsection as in effect in
6 December 1977 shall be applicable to individuals who be-
7 come eligible for old-age or disability insurance benefits or
8 die prior to 1978.”.

9 (e) Section 215 (e) of such Act is amended—

10 (1) by striking out “average monthly wage” each
11 place it appears and inserting in lieu thereof “average
12 indexed monthly earnings or, in the case of an individual
13 whose primary insurance amount is computed under
14 section 215 (a) as in effect prior to January 1979,
15 average monthly wage,” and

16 (2) by inserting immediately before “of (A)” in
17 paragraph (1) the following: “(before the application,
18 in the case of average indexed monthly earnings, of sub-
19 section (b) (3) (A))”.

20 (f) (1) Section 215 (f) (2) of this Act is amended to
21 read as follows:

22 “(2) (A) If an individual has wages or self-employ-
23 ment income for a year after 1978 for any part of which he
24 is entitled to old-age or disability insurance benefits, the

1 Secretary shall, at such time or times and within such period
2 as he may by regulation prescribe, recompute the individual's
3 primary insurance amount for that year.

4 “(B) For the purpose of applying subparagraph (A)
5 of subsection (a) (1) to the average indexed monthly earn-
6 ings of an individual to whom that subsection applies and
7 who receives a recomputation under this paragraph, there
8 shall be used, in lieu of the portions of those earnings taken
9 into account for purposes of clauses (i) and (ii) of subpara-
10 graph (B) of subsection (a) (1), the portions that were
11 (or, in the case of an individual described in subsection (a)
12 (4) (B), would have been) used in the computation of
13 such individual's primary insurance amount prior to the
14 application of this subsection.

15 “(C) A recomputation of any individual's primary in-
16 surance amount under this paragraph shall be made as pro-
17 vided in subsection (a) (1) as though the year with respect
18 to which it is made is the last year of the period specified in
19 subsection (b) (2) (B) (ii) ; and subsection (b) (3) (A)
20 shall apply with respect to any such recomputation as it
21 applied in the computation of such individual's primary in-
22 surance amount prior to the application of this subsection.

23 “(D) A recomputation under this paragraph with re-
24 spect to any year shall be effective—

1 “(i) in the case of an individual who did not die
2 in that year, for monthly benefits beginning with bene-
3 fits for January of the following year; or

4 “(ii) in the case of an individual who died in
5 that year, for monthly benefits beginning with benefits
6 for the month in which he died.”.

7 (2) Section 215 (f) (3) of such Act is repealed.

8 (3) Section 215 (f) (4) of such Act is amended to read
9 as follows:

10 “(4) A recomputation shall be effective under this sub-
11 section only if it increases the primary insurance amount
12 by at least \$1.”.

13 (4) Section 215 (f) of such Act is further amended by
14 adding at the end thereof the following new paragraphs:

15 “(7) This subsection as in effect in December 1978
16 shall continue to apply to the recomputation of a primary
17 insurance amount computed under subsection (a) or (d)
18 as in effect (without regard to the table in subsection (a))
19 in that month, and, where appropriate, under subsection (d)
20 as in effect in December 1977. For purposes of recomputing
21 a primary insurance amount determined under subsection
22 (a) or (d) (as so in effect) in the case of an individual to
23 whom those subsections apply by reason of subsection
24 (a) (4) (B) as in effect after December 1978, no remu-
25 neration shall be taken into account for the year in which the

1 individual initially became eligible for an old-age or dis-
2 ability insurance benefit or any year thereafter.

3 “(8) The Secretary shall recompute the primary in-
4 surance amounts applicable to beneficiaries whose benefits
5 are based on a primary insurance amount which was com-
6 puted under section 215 (a) (3) effective prior to Janu-
7 ary 1979, or would have been so computed if the dollar
8 amount specified therein were \$11.50. Such recomputation
9 shall be effective January 1979, and shall include the effect
10 of the increase in the dollar amount provided by section 215
11 (a) (1) (C) (i) (II). Such primary insurance amount shall
12 be deemed to be provided under such section for purposes of
13 section 215 (i).”.

14 (g) (1) Section 215 (i) (2) (A) (ii) of such Act is
15 amended to read as follows:

16 “(ii) If the Secretary determines that the base quarter
17 in any year is a cost-of-living computation quarter, he shall,
18 effective with the month of June of that year as provided in
19 subparagraph (B), increase—

20 “(I) the benefit amount to which individuals are
21 entitled for that month under section 227 or 228,

22 “(II) the primary insurance amount of each other
23 individual on which benefit entitlement is based under
24 this title (including a primary insurance amount deter-
25 mined under subsection (a) (1) (C) (i)), and

1 “(III) the amount of total monthly benefits based
2 on any primary insurance amount which is permitted
3 under section 203 (and such total shall be increased,
4 unless otherwise so increased under another provision of
5 this title, at the same time as such primary insurance
6 amount) or, in the case of a primary insurance amount
7 computed under subsection (a) as in effect (without
8 regard to the table contained therein) prior to January
9 1979, the amount to which the beneficiaries may be
10 entitled under section 203 as in effect in December 1978,
11 except as provided by section 203 (a) (6) and (7) as
12 in effect after December 1978.

13 The increase shall be derived by multiplying each of the
14 amounts described in subdivisions (I), (II), and (III)
15 (including each of those amounts as previously increased
16 under this subparagraph) by the same percentage (rounded
17 to the nearest one-tenth of 1 percent) as the percentage by
18 which the Consumer Price Index for that cost-of-living com-
19 putation quarter exceeds such index for the most recent prior
20 calendar quarter which was a base quarter under paragraph
21 (1) (A) (ii) or, if later, the most recent cost-of-living
22 computation quarter under paragraph (1) (B); and any
23 amount so increased that is not a multiple of \$0.10 shall be
24 increased to the next higher multiple of \$0.10. Any increase
25 under this subsection in a primary insurance amount deter-

1 mined under subparagraph (C) (i) (II) of subsection (a)
2 (1) shall be applied after the initial determination of such
3 primary insurance amount under that subparagraph.”.

4 (2) Section 215 (i) (2) (A) of such Act is amended by
5 adding at the end thereof the following new clause:

6 “(iii) In the case of an individual who becomes eligible
7 for an old-age or disability insurance benefit, or who dies prior
8 to becoming so eligible, in a year in which there occurs an
9 increase provided under clause (ii), the individual’s primary
10 insurance amount (without regard to the time of entitlement
11 to that benefit) shall be increased (unless otherwise so in-
12 creased under another provision of this title) by the amount
13 of that increase, but only with respect to benefits payable
14 for months after May of that year.”.

15 (3) Section 215 (i) (2) (D) of such Act (as amended
16 by section 103 of this Act) is amended by striking out all
17 that follows the first sentence and inserting in lieu thereof
18 the following: “He shall also publish in the Federal Register
19 at that time (i) a revision of the range of the primary
20 insurance amounts which are possible after the application
21 of this subsection based on the dollar amount specified in
22 subparagraph (C) (i) (II) of subsection (a) (1) (with
23 such revised primary insurance amounts constituting the
24 increased amounts determined for purposes of such subpara-
25 graph (C) (i) (II) under this subsection), or specified in

1 section 215 (a) (3) as in effect prior to 1979, and (ii) a
2 revision of the range of family maximum benefits which cor-
3 respond to such primary insurance amounts (with such
4 maximum benefits being effective notwithstanding section
5 203 (a) except for paragraph (3) (B) thereof (or para-
6 graph (2) thereof as in effect prior to 1979)).”.

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

9 “(4) This subsection as in effect in December 1978 shall
10 continue to apply to subsections (a) and (d), as then in
11 effect, for purposes of computing the primary insurance
12 amount of an individual to whom subsection (a), as in effect
13 after December 1978, does not apply (including an individ-
14 ual to whom subsection (a) does not apply in any year by
15 reason of paragraph (4) (B) of that subsection (but the
16 application of this subsection in such cases shall be modified
17 by the application of clause (I) in the last sentence of para-
18 graph (4) of that subsection)). For purposes of computing
19 primary insurance amounts and maximum family benefits
20 (other than primary insurance amounts and maximum
21 family benefits for individuals to whom such paragraph (4)
22 (B) applies), the Secretary shall publish in the Federal
23 Register revisions of the table of benefits contained in sub-
24 section (a), as in effect in December 1978, as required by
25 paragraph (2) (D) of this subsection as then in effect.”.

MAXIMUM BENEFITS

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SEC. 202, Section 203 (a) of the Social Security Act is amended to read as follows:

“Maximum Benefits

“(a) (1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215 (a) (1) or (4), or section 215 (d), as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraph (3) (but prior to any increases resulting from its application of paragraph (2) (A) (ii) (III) of section 215 (i)), be reduced as necessary so as not to exceed—

“(A) 150 percent of such individual’s primary insurance amount up to the amount established with respect to this subparagraph by paragraph (2),

“(B) 272 percent of the portion of such individual’s primary insurance amount which exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

“(C) 134 percent of the portion of such individual’s primary insurance amount which exceeds the

1 amount established with respect to subparagraph (B) but
2 does not exceed the amount established with respect to
3 this subparagraph by paragraph (2), and

4 “(D) 175 percent of such individual’s primary
5 insurance amount to the extent that it exceeds the amount
6 established with respect to subparagraph (C).

7 Any such amount that is not a multiple of \$0.10 shall be
8 increased to the next higher multiple of \$0.10.

9 “(2) (A) For individuals who initially become eligible
10 for old-age or disability insurance benefits or die in the calen-
11 dar year 1979, the amounts established with respect to sub-
12 paragraphs (A), (B), and (C) of paragraph (1) shall be
13 \$230, \$332, and \$433, respectively.

14 “(B) For individuals who initially become eligible for
15 old-age or disability insurance benefits or die in any calendar
16 year after 1979, each of the amounts so established shall
17 equal the product of the corresponding amount established
18 for the calendar year 1979 by subparagraph (A) of this
19 paragraph and the quotient obtained under subparagraph
20 (B) (ii) of section 215(a) (1), with such product being
21 rounded in the manner prescribed by section 215(a) (1)
22 (B) (iii).

23 “(C) In each calendar year after 1978 the Sec-
24 retary shall publish in the Federal Register, on or before
25 November 1, the formula which (except as provided in sec-

1 tion 215 (i) (2) (D)) is to be applicable under this para-
2 graph to individuals who become eligible for old-age or
3 disability insurance benefits, or die, in the following calendar
4 year.

5 “(D) A year shall not be counted as the year of an
6 individual’s death or eligibility for purposes of this para-
7 graph in any case where such individual was entitled to a
8 disability insurance benefit for any of the 12 months imme-
9 diately preceding such year (but there shall be counted
10 instead the year of the individual’s eligibility for the dis-
11 ability insurance benefits to which he was entitled during
12 such 12 months).

13 “(3) (A) When an individual who is entitled to bene-
14 fits on the basis of the wages and self-employment income
15 of any insured individual and to whom this subsection
16 applies would (but for the provisions of section 202 (k) (2)
17 (A)) be entitled to child’s insurance benefits for a month
18 on the basis of the wages and self-employment income of
19 one or more other insured individuals, the total monthly
20 benefits to which all beneficiaries are entitled on the basis
21 of such wages and self-employment income shall not be
22 reduced under this subsection to less than the smaller of—

23 “(i) the sum of the maximum amounts of bene-
24 fits payable on the basis of the wages and self-employ-
25 ment income of all such insured individuals, or

1 “(ii) an amount equal to the product of 1.75 and
2 the primary insurance amount that would be computed
3 under section 215 (a) (1) for that month with respect
4 to average indexed monthly earnings equal to one-
5 twelfth of the contribution and benefit base determined
6 for that year under section 230.

7 “(B) When two or more persons were entitled (with-
8 out the application of section 202 (j) (1) and section 223
9 (b)) to monthly benefits under section 202 or 223 for
10 January 1971 or any prior month on the basis of the wages
11 and self-employment income of such insured individual and
12 the provisions of this subsection as in effect for any such
13 month were applicable in determining the benefit amount
14 of any persons on the basis of such wages and self-em-
15 ployment income, the total of benefits for any month after
16 January 1971 shall not be reduced to less than the largest
17 of—

18 “(i) the amount determined under this subsection
19 without regard to this paragraph,

20 “(ii) the largest amount which has been deter-
21 mined for any month under this subsection for persons
22 entitled to monthly benefits on the basis of such insured
23 individual’s wages and self-employment income, or

24 “(iii) if any persons are entitled to benefits on the
25 basis of such wages and self-employment income for

1 the month before the effective month (after September
2 1972) of a general benefit increase under this title (as
3 defined in section 215 (i) (3)) or a benefit increase
4 under the provisions of section 215 (i) , an amount equal
5 to the sum of amounts derived by multiplying the benefit
6 amount determined under this title (excluding any part
7 thereof determined under section 202 (w)) for the
8 month before such effective month (including this sub-
9 section, but without the application of section 222 (b) ,
10 section 202 (q) , and subsections (b) , (c) , and (d) of
11 this section) , for each such person for such month, by
12 a percentage equal to the percentage of the increase
13 provided under such benefit increase (with any such
14 increased amount which is not a multiple of \$0.10 being
15 rounded to the next higher multiple of \$0.10) ;
16 but in any such case (I) paragraph (1) of this subsection
17 shall not be applied to such total of benefits after the appli-
18 cation of clause (ii) or (iii) , and (II) if section 202 (k)
19 (2) (A) was applicable in the case of any such benefits
20 for a month, and ceases to apply for a month after such
21 month, the provisions of clause (ii) or (iii) shall be applied,
22 for and after the month in which section 202 (k) (2) (A)
23 ceases to apply, as though paragraph (1) had not been
24 applicable to such total of benefits for the last month for
25 which clause (ii) or (iii) was applicable.

1 “(C) When any of such individuals is entitled to
2 monthly benefits as a divorced spouse under section 202
3 (b) or (c) or as a surviving divorced spouse under section
4 202 (e) or (f) for any month, the benefit to which he or she
5 is entitled on the basis of the wages and self-employment
6 income of such insured individual for such month shall be
7 determined without regard to this subsection, and the bene-
8 fits of all other individuals who are entitled for such month
9 to monthly benefits under section 202 on the wages and
10 self-employment income of such insured individual shall be
11 determined as if no such divorced spouse or surviving di-
12 vorced spouse were entitled to benefits for such month.

13 “(4) In any case in which benefits are reduced pursu-
14 ant to the preceding provisions of this subsection, the reduc-
15 tion shall be made after any deductions under this section
16 and after any deductions under section 222 (b). Whenever
17 a reduction is made under this subsection in the total of
18 monthly benefits to which individuals are entitled for any
19 month on the basis of the wages and self-employment in-
20 come of an insured individual, each such benefit other than
21 the old-age or disability insurance benefit shall be propor-
22 tionately decreased.

23 “(5) Notwithstanding any other provision of law,
24 when—

25 “(A) two or more persons are entitled to monthly

1 benefits for a particular month on the basis of the wages
2 and self-employment income of an insured individual
3 and (for such particular month) the provisions of this
4 subsection are applicable to such monthly benefits, and

5 “(B) such individual’s primary insurance amount
6 is increased for the following month under any provision
7 of this title,

8 then the total of monthly benefits for all persons on the basis
9 of such wages and self-employment income for such particular
10 month, as determined under the provisions of this subsection,
11 shall for purposes of determining the total monthly benefits
12 for all persons on the basis of such wages and self-employ-
13 ment income for months subsequent to such particular month
14 to be considered to have been increased by the smallest
15 amount that would have been required in order to assure that
16 the total of monthly benefits payable on the basis of such
17 wages self-employment income for any such subsequent
18 month will not be less (after the application of the other pro-
19 visions of this subsection and section 202 (q)) than the total
20 of monthly benefits (after the application of the other pro-
21 visions of this subsection and section 202 (q)) payable on
22 the basis of such wages and self-employment income for such
23 particular month.

24 “(6) In the case of any individual who is entitled for
25 any month to benefits based upon the primary insurance

1 amounts of two or more insured individuals, one or more of
2 which primary insurance amounts were determined under
3 section 215 (a) or 215 (d) as in effect (without regard to
4 the table contained therein) prior to January 1979 and one
5 or more of which primary insurance amounts were deter-
6 mined under section 215 (a) (1) or (4), or section 215 (d),
7 as in effect after December 1978, the total benefits payable
8 to that individual and all other individuals entitled to benefits
9 for that month based upon those primary insurance amounts
10 shall be reduced to an amount equal to the product of 1.75
11 and the primary insurance amount that would be computed
12 under section 215 (a) (1) for that month with respect to
13 average indexed monthly earnings equal to one-twelfth of
14 the contribution and benefits base determined for the year
15 in which that month occurs under section 230.

16 “(7) Subject to paragraph (6), this subsection as in
17 effect in December 1978 shall remain in effect with respect
18 to a primary insurance amount computed under section
19 215 (a) or (d), as in effect (without regard to the table
20 contained therein) in December 1978, except that a primary
21 insurance amount so computed with respect to an individual
22 who first becomes eligible for an old-age or disability insur-
23 ance benefit, or dies, after December 1978, shall instead be
24 governed by this section as in effect after December 1978.”.

1 INCREASE IN OLD-AGE BENEFIT AMOUNTS

2 FOR DELAYED RETIREMENT

3 SEC. 203. Section 202 (w) (1) (A) of the Social Secu-
4 rity Act is amended by inserting after "such amount," the
5 following: "or, in the case of an individual who first becomes
6 eligible for an old-age insurance benefit after December
7 1978, one-quarter of 1 percent of such amount,".

8 CONFORMING AMENDMENTS

9 SEC. 204. (a) Section 202 (m) (1) of the Social Secu-
10 rity Act is amended to read as follows:

11 " (1) In any case in which an individual is entitled to
12 a monthly benefit under this section on the basis of a pri-
13 mary insurance amount computed under section 215 (a) or
14 (d), as in effect after December 1978, on the basis of the
15 wages and self-employment income of a deceased individual
16 for any month and no other person is (without the applica-
17 tion of subsection (j) (1)) entitled to a monthly benefit
18 under this section for that month on the basis of such wages
19 and self-employment income, the individual's benefit amount
20 for that month, prior to reduction under subsection (k) (3),
21 shall not be less than that provided by subparagraph (C)
22 (i) (I). of section 215 (a) (1) and increased under section
23 215 (i) for months after the month of initial entitlement as
24 though such benefit were a primary insurance amount."

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

2 (1) by inserting after “section 215 (a) (3)” in
3 paragraph (1) (in the matter preceding subparagraph
4 (A)) the following: “as in effect in December 1978
5 or section 215 (a) (1) (C) (II) as in effect thereafter”;

6 (2) by inserting “as in effect in December 1978,
7 or section 215 (a) (1) (C) (II) as in effect thereafter,”
8 after “paragraph (3) of section 215 (a)” in paragraph
9 (5); and

10 (3) by inserting “(whether before, in, or after
11 December 1978)” after “determined under section 215
12 (a)” in paragraph (5).

13 (c) Section 217 (b) (1) of such Act is amended by
14 inserting “as in effect in December 1978” after “section 215
15 (c)” each place it appears, and after “section 215 (d)”.

16 (d) Section 224 (a) of such Act is amended by insert-
17 ing “(determined under section 215 (b) as in effect prior to
18 January 1979)” after “(A) the average monthly wage”
19 in the matter following paragraph (8).

20 (e) Section 1839 (c) (3) (B) of such Act is amended
21 to read as follows:

22 “(B) the monthly premium rate most recently
23 promulgated by the Secretary under this paragraph,
24 increased by a percentage determined as follows: The

1 Secretary shall ascertain the primary insurance amount
2 computed under section 215 (a) (1), based upon aver-
3 age indexed monthly earnings of \$900, that applied to
4 individuals who became eligible for and entitled to old-
5 age insurance benefits on May 1 of the year of the
6 promulgation. He shall increase the monthly premium
7 rate by the same percentage by which that primary
8 insurance amount is increased when, by reason of the
9 law in effect at the time the promulgation is made, it
10 is so computed to apply to those individuals on the
11 following May 1.”.

12 (f) Section 104 (j) (2) of the Social Security Amend-
13 ments of 1972 is amended by striking out “215 (b) (3)”
14 and inserting in lieu thereof “215 (b) (2) (B) (iii)”.

15 EFFECTIVE DATE

16 SEC. 205. The amendments made by the provisions of
17 this title other than section 201 (d) shall be effective with
18 respect to monthly benefits and lump-sum death payments
19 under title II of the Social Security Act payable for months
20 after December 1978. The amendments made by section 201
21 (d) shall be effective with respect to monthly benefits of an
22 individual who becomes eligible for an old-age or disability
23 insurance benefit, or dies, after December 1977.

1 TITLE III—COVERAGE UNDER THE OLD-AGE,
2 SURVIVORS, AND DISABILITY INSURANCE
3 PROGRAM

4 COVERAGE OF FEDERAL EMPLOYEES

5 SEC. 301. (a) (1) Section 210 (a) of the Social Secu-
6 rity Act is amended by striking out paragraphs (5) and
7 (6).

8 (2) (A) Section 210 (l) (1) of such Act is amended to
9 read as follows:

10 “(1) Except as provided in paragraph (4), the term
11 ‘employment’ shall include service (other than service per-
12 formed while on leave without pay) which is performed by
13 an individual as a member of a uniformed service on active
14 duty after December 1956, whether performed before, on, or
15 after the effective date of the repeal of paragraphs (5) and
16 (6) of subsection (a) by section 301 of the Social Security
17 Financing Amendments of 1977, notwithstanding the provi-
18 sions of subsection (a) as in effect before the repeal of such
19 paragraphs. For purposes of sections 202 (i), 205 (p) (1),
20 209, 215 (h), and 229 (a), service described in the preced-
21 ing sentence shall be considered service to which the provi-
22 sions of this paragraph are applicable.”.

23 (B) Section 210 (o) of such Act is amended by striking
24 out “, notwithstanding the provisions of subsection (a),”.

1 (C) Section 229 (a) of such Act is amended by striking
2 out "service as a member of a uniformed service (as defined
3 in section 210 (m)) which was included in the term 'employ-
4 ment' as defined in section 210 (a) as a result of the provi-
5 sions of section 210 (l) " and inserting in lieu thereof "service,
6 as a member of a uniformed service, to which the provisions
7 of section 210 (l) (1) are applicable".

8 (b) (1) Section 3121 (b) of the Internal Revenue
9 Code of 1954 (relating to definition of employment) is
10 amended by striking out paragraphs (5) and (6).

11 (2) (A) Section 3121 (m) (1) of such Code (relating
12 to service in the uniformed services) is amended to read as
13 follows:

14 " (1) INCLUSION OF SERVICE.—The term 'employ-
15 ment' shall include service (other than service per-
16 formed while on leave without pay) which is performed
17 by an individual as a member of a uniformed service
18 on active duty after December 1956, whether performed
19 before, on, or after the effective date of the repeal of
20 paragraphs (5) and (6) of subsection (b) by section
21 301 of the Social Security Financing Amendments of
22 1977, notwithstanding the provisions of subsection (b)
23 as in effect before the repeal of such paragraphs. For
24 purposes of section 3122 and subsection (i) (2) of this

1 section, service described in the preceding sentence
2 shall be considered service to which the provisions of
3 this paragraph are applicable.”.

4 (B) Section 3121 (p) of such Code (relating to Peace
5 Corps volunteer service) is amended by striking out “, not-
6 withstanding the provisions of subsection (b) of this sec-
7 tion,”.

8 (c) The amendments made by this section shall apply
9 with respect to service performed after December 1979.

10 COVERAGE OF STATE AND LOCAL EMPLOYEES

11 SEC. 302. (a) Section 218 (g) of the Social Security
12 Act is amended—

13 (1) by striking out “Upon” in paragraph (1) and
14 “If” in paragraph (2), and by inserting in lieu thereof
15 “Subject to paragraph (4), upon” and “Subject to
16 paragraph (4), if”, respectively; and

17 (2) by adding at the end thereof the following
18 new paragraph:

19 “(4) No agreement under this section may be termi-
20 nated under paragraph (1) or paragraph (2) (either in
21 its entirety or with respect to any coverage group) unless
22 the applicable notice referred to in such paragraph is given
23 on or before September 13, 1977.”.

24 (b) Effective with respect to service performed after
25 December 1979—

1 (1) section 218 of the Social Security Act is
2 repealed;

3 (2) section 210 (a) of such Act is amended by
4 striking out paragraph (7) ; and

5 (3) section 3121 (b) of the Internal Revenue Code
6 of 1954 is amended by striking out paragraph (7).

7 (c) (1) (A) Chapter 21 of the Internal Revenue Code
8 of 1954 (the Federal Insurance Contributions Act) is
9 amended by redesignating sections 3125 and 3126 as sections
10 3126 and 3127, respectively, and by inserting after section
11 3124 the following new section :

12 **“SEC. 3125. RETURNS IN THE CASE OF STATE AND LOCAL**
13 **GOVERNMENTAL EMPLOYEES.**

14 “In the case of the taxes imposed by this chapter with
15 respect to services performed in the employ of a State or
16 any political subdivision thereof, or in the employ of any
17 instrumentality of a State or political subdivision thereof
18 which is wholly owned thereby, the return and payment of
19 the taxes may be made by the Governor of such State or
20 such agents as he may designate. The person making such
21 return may, for convenience of administration, make pay-
22 ments of the tax imposed by section 3111 with respect to
23 such service without regard to the contribution and benefit
24 base limitation in section 3121 (a) (1).”.

1 (B) The table of sections for chapter 21 of such Code
2 is amended by striking out the last two items and inserting
3 in lieu thereof the following:

“Sec. 3125. Returns in the case of State and local govern-
mental employees.

“Sec. 3126. Returns in the case of governmental employees
in Guam, American Samoa, and the District
of Columbia.

“Sec. 3127. Short title.”.

4 (2) (A) Section 6205 (a) of such Code (relating to
5 adjustment of tax) is amended—

6 (i) by striking out “3125” in paragraphs (3) and
7 (4) and inserting in lieu thereof “3126”;

8 (ii) by redesignating paragraphs (3) and (4) as
9 paragraphs (4) and (5), respectively; and

10 (iii) by inserting after paragraph (2) the follow-
11 ing new paragraph:

12 “(3) STATE AS EMPLOYER.—For purposes of this
13 subsection, in the case of remuneration received during
14 any calendar year from a State or political subdivision
15 thereof or any instrumentality which is wholly owned
16 thereby, the Governor of the State and each agent des-
17 ignated by him who makes a return pursuant to sec-
18 tion 3125 shall be deemed a separate employer.”.

19 (B) Section 6413 (a) of such Code (relating to ad-
20 justment of tax) is amended—

21 (i) by striking out “3125” in paragraphs (3) and

1 (4) and inserting in lieu thereof "3126";

2 (ii) by redesignating paragraphs (3) and (4) as
3 paragraphs (4) and (5), respectively; and

4 (iii) by inserting after paragraph (2) the follow-
5 ing new paragraph:

6 " (3) STATE AS EMPLOYER.—For purposes of this
7 subsection, in the case of remuneration received during
8 any calendar year from a State or political subdivision
9 thereof or any instrumentality which is wholly owned
10 thereby, the Governor of the State and each agent des-
11 ignated by him who makes a return pursuant to sec-
12 tion 3125 shall be deemed a separate employer."

13 (C) Section 6413 (c) (2) of such Code (relating to
14 applicability in case of certain governmental employees) is
15 amended—

16 (i) by striking out subparagraph (B) and inserting
17 in lieu thereof the following new subparagraph:

18 " (B) STATE EMPLOYEES.—For purposes of
19 this subsection, in the case of remuneration received
20 during any calendar year from a State or political
21 subdivision thereof or any instrumentality which is
22 wholly owned thereby, the Governor of the State
23 and each agent designated by him who makes a
24 return pursuant to section 3125 shall be deemed a
25 separate employer."; and

1 (ii) by striking out “3125 (a)”, “3125 (b)”, and
2 “3125 (c)” in subparagraphs (D), (E), and (F) and
3 inserting in lieu thereof “3126 (a)”, “3126 (b)”, and
4 “3126 (c)”, respectively.

5 (3) Section 230 (c) of the Social Security Act is
6 amended by inserting “3126”, after “3125”.

7 (d) (1) Section 205 (c) (5) (F) (iii) of such Act is
8 amended by striking out “are made” and inserting in lieu
9 thereof “were made”.

10 (2) Section 209 (i) of such Act is amended by striking
11 out “ (as defined in section 218 (b) (2)) ”.

12 (3) Section 210 (a) (10) (B) (ii) of such Act is
13 amended by striking out “, unless” and all that follows and
14 inserting in lieu thereof a semicolon.

15 (4) Section 210 (k) of such Act is repealed.

16 (5) Section 211 (c) (1) of such Act is amended by
17 striking out “and in which” and all that follows and insert-
18 ing in lieu thereof a semicolon.

19 (6) Section 211 (c) (2) (E) of such Act is amended
20 by striking out “with respect to fees” and all that follows
21 and inserting in lieu thereof “, and”.

22 (e) (1) Clause (A) in the second sentence of section
23 1402 (b) of the Internal Revenue Code of 1954 is amended
24 by striking out “under an agreement” where it first appears

1 and all that follows down through “employees), or”, and
2 by striking out the comma before “as would be wages”.

3 (2) Section 1402 (c) (1) of such Code is amended by
4 striking out “and in which” and all that follows and insert-
5 ing in lieu thereof a semicolon.

6 (3) Section 1402 (c) (2) (E) of such Code is amended
7 by striking out “with respect to fees” and all that follows
8 and inserting in lieu thereof “, and”.

9 (4) Section 3121 (b) (10) (B) (ii) of such Code is
10 amended by striking out “, unless” and all that follows and
11 inserting in lieu thereof a semicolon.

12 (5) Section 3121 (j) of such Code is repealed.

13 (6) Section 6511 (d) (5) of such Code is repealed.

14 (f) The amendments and repeals made by subsections
15 (b), (c), (d), and (e) (1) through (5) of this section
16 shall apply with respect to services performed after Decem-
17 ber 1979. Subsection (e) (6) shall apply with respect to
18 claims accruing after December 1979.

19 **COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS**

20 **SEC. 303.** (a) (1) Section 3121 (k) (1) of the Internal
21 Revenue Code of 1954 (relating to waiver of exemption by
22 organization) is amended—

23 (A) by striking out “The period” in the first sen-
24 tence of subparagraph (D) and inserting in lieu thereof
25 “Subject to subparagraph (G), the period”; and

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

3 “(G) No period for which a certificate is effec-
4 tive may be terminated under subparagraph (D) or
5 paragraph (2) unless the applicable advance notice
6 referred to in such subparagraph or paragraph is
7 given on or before September 13, 1977.”

8 (2) Section 3121(k)(2) of such Code (relating to
9 termination of waiver period by Secretary) is amended by
10 striking out “If” and inserting in lieu thereof “Subject to
11 paragraph (1)(G), if”.

12 (b) Effective with respect to service performed after
13 December 1979—

14 (1) section 210(a)(8) of the Social Security Act
15 is amended—

16 (A) by striking out “(A)” immediately after
17 “(8)”,

18 (B) by striking out “this subparagraph” where
19 it first appears and inserting in lieu thereof “this
20 paragraph”, and

21 (C) by striking out subparagraph (B);

22 (2) section 3121(b)(8) of the Internal Revenue
23 Code of 1954 is amended—

24 (A) by striking out “(A)” immediately after
25 “(8)”,

1 (B) by striking out “this subparagraph” where
2 it first appears and inserting in lieu thereof “this
3 paragraph”, and

4 (C) by striking out subparagraph (B); and
5 (3) section 3121 (k) of such Code (relating to
6 exemption of religious, charitable, and certain other or-
7 ganizations) is repealed.

8 CREDITING OF CERTAIN FEDERAL, STATE, AND LOCAL SERV-
9 ICE, AND CERTAIN SERVICE FOR NONPROFIT ORGANIZA-
10 TIONS, PERFORMED PRIOR TO THE EFFECTIVE DATE OF
11 COVERAGE

12 SEC. 304. Section 213 of the Social Security Act is
13 amended by adding at the end thereof the following new sub-
14 section:

15 “Crediting of Certain Federal, State, and Local Service,
16 and Certain Service for Nonprofit Organizations, Per-
17 formed Prior to Effective Date of Coverage

18 “(d) In the case of any individual who—

19 “(1) (A) performs service in the employ of the
20 United States or any instrumentality thereof (and de-
21 rives at least six quarters of coverage therefrom) on or
22 after the effective date of the repeal of section 210 (a)

23 (5) and (6) by section 301 of the Social Security Fi-
24 nancing Amendments of 1977, and

25 “(B) also performed service in the employ of the

1 United States or any instrumentality thereof prior to
2 such date, or

3 “(2) (A) performs service in the employ of a State
4 or political subdivision or any instrumentality of any
5 one or more of the foregoing which is wholly owned
6 thereby (and derives at least six quarters of coverage
7 therefrom) on or after the effective date of the repeal of
8 section 210 (a) (7) by section 302 of the Social Security
9 Financing Amendments of 1977, and

10 “(B) also performed service in the employ of a
11 State or political subdivision or any such instrumentality
12 prior to such date, or

13 “(3) (A) performs service in the employ of a
14 religious, charitable, educational, or other organization
15 described in section 501 (c) (3) of the Internal Revenue
16 Code of 1954 which is exempt from income tax under
17 section 501 (a) of such Code (and derives at least six
18 quarters of coverage therefrom) on or after the effective
19 date of the repeal of section 210 (a) (8) (B) by section
20 303 of the Social Security Financing Amendments of
21 1977, and

22 “(B) also performed service in the employ of such
23 an organization prior to such date,

24 each calendar quarter in which such individual performed
25 service described in subparagraph (B) of paragraph (1),

1 (2), or (3) (whichever is applicable) shall, if it is not
2 otherwise a quarter of coverage, be treated as a quarter of
3 coverage for all the purposes of this title if (as determined
4 under regulations prescribed by the Secretary) it would have
5 constituted a quarter of coverage for such purposes had the
6 repeal referred to in subparagraph (A) of such paragraph
7 been effective on the first day of such calendar quarter.”.

8 EXCLUSION FROM COVERAGE OF CERTAIN LIMITED

9 PARTNERSHIP INCOME

10 SEC. 305. (a) Section 211(a) of the Social Security
11 Act is amended—

12 (1) by striking out “and” at the end of paragraph
13 (9);

14 (2) by striking out the period at the end of para-
15 graph (10) and inserting in lieu thereof “; and”; and

16 (3) by inserting after paragraph (10) the following
17 new paragraph:

18 “(11) There shall be excluded the distributive
19 share of any item of income or loss of a limited
20 partner, as such, other than guaranteed payments de-
21 scribed in section 707 (c) of the Internal Revenue Code
22 of 1954 to that partner for services actually rendered
23 to or on behalf of the partnership to the extent that those
24 payments are established to be in the nature of remunera-
25 tion for those services.”.

1 (b) Section 1402 (a) of the Internal Revenue Code of
2 1954 (relating to definition of net earnings from self-em-
3 ployment) is amended—

4 (1) by striking out “and” at the end of paragraph
5 (10);

6 (2) by striking out the period at the end of para-
7 graph (11) and inserting in lieu thereof “; and”; and

8 (3) by inserting after paragraph (11) the follow-
9 ing new paragraph:

10 “(12) there shall be excluded the distributive share
11 of any item of income or loss of a limited partner, as
12 such, other than guaranteed payments described in
13 section 707 (c) to that partner for services actually
14 rendered to or on behalf of the partnership to the extent
15 that those payments are established to be in the na-
16 ture of remuneration for those services.”.

17 (c) The amendments made by this section shall apply
18 with respect to taxable years beginning after December 31,
19 1977.

20 TAX ON EMPLOYERS OF INDIVIDUALS WHO RECEIVE
21 INCOME FROM TIPS

22 SEC. 306. (a) Section 3121 of the Internal Revenue
23 Code of 1954 (definitions under Federal Insurance Con-

1 tributions Act) is amended by adding at the end thereof the
2 following new subsection:

3 “(s) SPECIAL RULE FOR DETERMINING WAGES SUB-
4 JECT TO EMPLOYER TAX IN CASE OF CERTAIN EM-
5 PLOYERS WHOSE EMPLOYEES RECEIVE INCOME FROM
6 TIPS.—If the wages paid by an employer with respect to
7 the employment during any month of an individual who
8 (for services performed in connection with such employ-
9 ment) receives tips which constitute wages, and to which
10 section 3102 (a) applies, are less than the total amount
11 which would be payable (with respect to such employment)
12 at the minimum wage rate applicable to such individual under
13 section 6 (a) (1) of the Fair Labor Standards Act of 1938
14 (determined without regard to section 3 (m) of such Act),
15 the wages so paid shall be deemed for purposes of section
16 3111 to be equal to such total amount.”.

17 (b) Section 3111 of such Code is amended by inserting
18 “and (s)” after “3121 (a)” in subsections (a) and (b).

19 (c) The amendments made by this section shall apply
20 with respect to wages paid with respect to employment
21 performed in months after December 1977.

22 CONFORMING AMENDMENTS

23 SEC. 307. (a) (1) Section 210 (a) of the Social Security
24 Act (as amended by the preceding provisions of this title

1 and by section 601) is further amended by redesignating
2 paragraphs (8) through (20) as paragraphs (5) through
3 (17), respectively.

4 (2) (A) Section 205(o) of such Act is amended by
5 striking out “section 210(a)(9)” and inserting in lieu
6 thereof “section 210(a)(6)”.

7 (B) Section 210(b) of such Act is amended by striking
8 out “paragraph (9) of subsection (a)” and inserting in lieu
9 thereof “paragraph (6) of subsection (a)”.

10 (C) Section 211(c)(2) of such Act is amended—

11 (i) by striking out “section 210(a)(14)(B)” in
12 subparagraph (A) and inserting in lieu thereof “section
13 210(a)(11)(B)”;

14 (ii) by striking out “section 210(a)(16)” in sub-
15 paragraph (B) and inserting in lieu thereof “section
16 210(a)(13)”;

17 (iii) by striking out “section 210(a)(11), (12),
18 or (15)” in subparagraph (C) and inserting in lieu
19 thereof “section 210(a)(8), (9), or (12)”;

20 (iv) by striking out “section 210(a)(20)” in sub-
21 paragraph (F) and inserting in lieu thereof “section
22 210(a)(17)”.

23 (b) (1) Section 3121(b) of the Internal Revenue

1 Code of 1954 (relating to definition of employment), as
2 amended by the preceding provisions of this title and by
3 section 612, is further amended by redesignating paragraphs
4 (8) through (20) as paragraphs (5) through (17),
5 respectively.

6 (2) (A) Section 1402 (c) (2) of such Code (relating
7 to definition of trade or business) is amended—

8 (i) by striking out “section 3121 (b) (14) (B)”
9 in subparagraph (A) and inserting in lieu thereof “sec-
10 tion 3121 (b) (11) (B)”;

11 (ii) by striking out “section 3121 (b) (16)” in
12 subparagraph (B) and inserting in lieu thereof “section
13 3121 (b) (13)”;

14 (iii) by striking out “section 3121 (b) (11), (12),
15 or (15)” in subparagraph (C) and inserting in lieu
16 thereof “section 3121 (b) (8), (9), or (12)”;

17 (iv) by striking out “section 3121 (b) (20)” in
18 subparagraph (F) and inserting in lieu thereof “section
19 3121 (b) (17)”.

20 (B) Section 1402 (g) of such Code (relating to treat-
21 ment of certain remuneration erroneously reported as net
22 earnings from self-employment) is amended by striking out
23 “section 3121 (b) (8)”, “section 3121 (b) (8) (A)”, and

1 “section 3121 (b) (8) (B) (ii) and (iii)” and inserting in
2 lieu thereof “section 3121 (b) (5)”, “section 3121 (b) (5)
3 (A)”, and “section 3121 (b) (5) (B) (ii) and (iii)”, re-
4 spectively.

5 (C) Section 3121 (c) of such Code (relating to in-
6 cluded and excluded service) is amended by striking out “by
7 subsection (b) (9)” and inserting in lieu thereof “by sub-
8 section (b) (6)”.

9 (D) Section 3121 (r) (3) of such Code (relating to
10 election of coverage by religious orders) is amended by
11 striking out “subsection (b) (8) (A)” and “section 210 (a)
12 (8) (A)” and inserting in lieu thereof “subsection (b)
13 (5)” and “section 210 (a) (5)”, respectively.

14 (E) Section 3124 of such Code (relating to estimate
15 of revenue reduction) is amended by striking out “section
16 3121 (b) (9)” and inserting in lieu thereof “section 3121 (b)
17 (6)”.

18 (c) Section 18 (2) of the Railroad Retirement Act of
19 1974 is amended by striking out “section 210 (a) (9) of the
20 Social Security Act” and inserting in lieu thereof “section
21 210 (a) (6) of the Social Security Act”.

22 (d) The amendments made by this section shall apply
23 with respect to service performed after December 1979.

1 TITLE IV—ELIMINATION OF GENDER-BASED
2 DISTINCTIONS UNDER THE OLD-AGE, SUR-
3 VIVORS, AND DISABILITY INSURANCE PRO-
4 GRAM

5 PART A—EQUALIZATION OF TREATMENT OF MEN AND
6 WOMEN UNDER THE PROGRAM

7 DIVORCED HUSBANDS

8 SEC. 401. (a) (1) Section 202(c) (1) of the Social
9 Security Act is amended, in the matter preceding subpara-
10 graph (A), by inserting “and every divorced husband (as
11 defined in section 216(d))” before “of an individual” and
12 inserting “or such divorced husband” after “if such hus-
13 band”.

14 (2) Section 202(c) (1) of such Act is further
15 amended—

16 (A) by redesignating subparagraphs (C) and (D)
17 as subparagraphs (D) and (E), and by inserting after
18 subparagraph (B) the following new subparagraph:

19 “(C) in the case of a divorced husband, is not
20 married,”;

21 (B) by striking out “after August 1950” in the
22 matter following subparagraph (E) (as so redesign-
23 nated); and

1 (C) by striking out "the month in which any of
2 the following occurs:" and all that follows and insert-
3 ing in lieu thereof the following:

4 "the first month in which any of the following occurs:

5 "(F) he dies,

6 "(G) such individual dies,

7 "(H) in the case of a husband, they are divorced
8 and either (i) he has not attained age 62, or (ii) he
9 has attained age 62 but has not been married to such
10 individual for a period of 20 years immediately before
11 the divorce became effective,

12 "(I) in the case of a divorced husband, he marries
13 a person other than such individual,

14 "(J) he becomes entitled to an old-age or dis-
15 ability insurance benefit based on a primary insurance
16 amount which is equal to or exceeds one-half of the
17 primary insurance amount of such individual, or

18 "(K) such individual is not entitled to disability
19 insurance benefits and is not entitled to old-age insur-
20 ance benefits."

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

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

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

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

5 “(B) an individual who has attained the age
6 of 18 and is entitled to benefits under subsection
7 (d),

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

12 (5) Section 202(c)(2) of such Act is amended by
13 striking out “(C)” in the matter immediately preceding
14 subparagraph (A) and inserting in lieu thereof “(D)”.

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

18 (7) Section 202(c)(1)(E) of such Act (as re-
19 designated by paragraph (2) of this subsection) is amended
20 by striking out “his wife” and inserting in lieu thereof
21 “such individual”.

22 (b)(1) Section 202(f)(1) of such Act is amended,
23 in the matter preceding subparagraph (A), by inserting
24 “and every surviving divorced husband (as defined in section

1 216(d))” before “of an individual” and inserting “or
2 such surviving divorced husband” after “if such widower”.

3 (2) Section 202 (f) (1) of such Act is further amended
4 by striking out “his deceased wife” in subparagraph (E)
5 and in the matter following subparagraph (G) and insert-
6 ing in lieu thereof “such deceased individual”.

7 (3) Paragraphs (3), (4), (6), and (7) of section 202
8 (f) of such Act are each amended by inserting “or surviving
9 divorced husband” after “widower” wherever it appears.

10 (4) Paragraph (3) of section 202 (f) of such Act is
11 further amended by striking out “his deceased wife” wherever
12 it appears and by inserting in lieu thereof “such deceased
13 individual”, and by striking out “wife” wherever it appears
14 and inserting in lieu thereof “individual”.

15 (5) Section 202 (f) (4) of such Act is further amended
16 by striking out “remarries” and inserting in lieu thereof
17 “marries”, and by inserting “or surviving divorced hus-
18 band’s” after “widower’s”.

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

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

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

1 (c) (1) Section 216 (d) of such Act is amended by re-
2 designating paragraph (4) as paragraph (6), and by insert-
3 ing after paragraph (3) the following new paragraphs:

4 “(4) The term ‘divorced husband’ means a man di-
5 vorced from an individual, but only if he has been married to
6 such individual for a period of 20 years immediately before
7 the date the divorce became effective.

8 “(5) The term ‘surviving divorced husband’ means a
9 man divorced from an individual who has died, but only if he
10 has been married to the individual for a period of 20 years
11 immediately before the divorce became effective.”.

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

14 “Divorced Spouses; Divorce”.

15 (d) (1) Section 205 (b) of such Act is amended by
16 inserting “divorced husband,” after “husband,” and “surviv-
17 ing divorced husband,” after “widower,”.

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

20 REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE 60

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

ILLEGITIMATE CHILDREN

1
2 SEC. 403. (a) Section 216 (h) (3) of the Social Secu-
3 rity Act is amended by inserting "mother or" before "father"
4 wherever it appears.

5 (b) Section 216 (h) (3) (A) (i) of such Act is
6 amended by striking out "daughter," at the end of clause
7 (III) and all that follows and inserting in lieu thereof
8 "daughter; or".

9 (c) Section 216 (h) (3) (A) (ii) of such Act is
10 amended by striking out everything after "time" and in-
11 serting in lieu thereof "such applicant's application for
12 benefits was filed;".

13 (d) Section 216 (h) (3) (B) (i) of such Act is amend-
14 ed by striking out "daughter," at the end of clause (III)
15 and all that follows and inserting in lieu thereof "daughter;
16 or".

17 (e) Section 216 (h) (3) (B) (ii) of such Act is amend-
18 ed by striking out "such period of disability began" and
19 inserting in lieu thereof "such applicant's application for
20 benefits was filed".

TRANSITIONAL INSURED STATUS

21
22 SEC. 404. (a) Section 227 (a) of the Social Security
23 Act is amended—

24 (1) by striking out "wife" wherever it appears and
25 inserting in lieu thereof "spouse";

1 (2) by striking out “wife’s” wherever it appears
2 and inserting in lieu thereof “spouse’s”;

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

5 (4) by inserting “or section 202 (c)” after “sec-
6 tion 202 (b)” wherever it appears.

7 (b) Section 227 (b) and section 227 (c) of such Act
8 are amended—

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

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

13 (3) by striking out “her” wherever it appears and
14 inserting in lieu thereof “the”; and

15 (4) by inserting “or section 202 (f)” after “section
16 202 (e)” wherever it appears.

17 (c) Section 216 of such Act (as amended by the
18 preceding provisions of the Act) is further amended by in-
19 serting before subsection (b) the following new subsection:

20 “Spouse; Surviving Spouse

21 “(a) (1) The term ‘spouse’ means a wife as defined
22 in subsection (b) or a husband as defined in subsection (f).

23 “(2) The term ‘surviving spouse’ means a widow as
24 defined in subsection (c) or a widower as defined in sub-
25 section (g).”.

1 EQUALIZATION OF BENEFITS UNDER SECTION 228

2 SEC. 405. (a) Section 228 (b) (2) of the Social Secu-
3 rity Act is amended—

4 (1) by striking out “the husband’s benefit” and
5 inserting in lieu thereof “each of their benefits”;

6 (2) by striking out “\$64.40” and inserting in lieu
7 thereof “\$48.30”; and

8 (3) by striking out everything after “section
9 215 (i)” the first time it appears and inserting in lieu
10 thereof a period.

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

13 “(3) In the case of a husband or wife, both of whom
14 are entitled to benefits under this section for any month, the
15 benefit amount of each, after any reduction under paragraph
16 (1), shall be further reduced (but not below zero) by the
17 excess (if any) of (A) the total amount of any periodic
18 benefits under governmental pension systems for which the
19 other is eligible for such month, over (B) the larger of
20 \$48.30 or the amount most recently established in lieu
21 thereof under section 215 (i).”.

22 (c) The Secretary shall increase the amounts specified
23 in section 228 of the Social Security Act, as amended by
24 this section, to take account of any general benefit increases
25 (as referred to in section 215 (i) (3) of such Act), and

1 any increases under section 215 (i) of such Act, which
2 occur after June 1974.

3 FATHER'S INSURANCE BENEFITS

4 SEC. 406. (a) Section 202 (g) of the Social Security
5 Act is amended—

6 (1) by striking out "widow" wherever it appears
7 and inserting in lieu thereof "surviving spouse";

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

10 (3) by striking out "wife's insurance benefits" in
11 paragraph (1) (D) and inserting in lieu thereof "a
12 spouse's insurance benefit";

13 (4) by striking out "her" wherever it appears and
14 inserting in lieu thereof "his";

15 (5) by striking out "she" wherever it appears and
16 inserting in lieu thereof "he";

17 (6) by striking out "mother" wherever it appears
18 and inserting in lieu thereof "parent";

19 (7) by inserting "or father's" after "mother's"
20 wherever it appears;

21 (8) by striking out "after August 1950"; and

22 (9) by inserting "this subsection or" before "sub-
23 section (a)" in paragraph (3) (A).

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

1 (c) Section 216 (d) of such Act (as amended by section
2 401 (c) (1) of this Act) is further amended by redesignating
3 paragraph (6) as paragraph (8), and by inserting after
4 paragraph (5) the following new paragraphs:

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

14 “(7) The term ‘surviving divorced parent’ means a sur-
15 viving divorced mother as defined in paragraph (3) of this
16 subsection or a surviving divorced father as defined in para-
17 graph (6).”.

18 (d) Section 202 (c) (1) of such Act (as amended by
19 section 401 (a) (2) of this Act) is further amended by in-
20 serting “(subject to subsection (s))” before “be entitled
21 to” in the matter following subparagraph (E) and pre-
22 ceding subparagraph (F).

23 (e) Section 202 (c) (1) (B) of such Act is amended by
24 inserting after “62” the following: “or (in the case of a

1 husband) has in his care (individually or jointly with such
2 individual) at the time of filing such application a child en-
3 titled to child's insurance benefits on the basis of the wages
4 and self-employment income of such individual".

5 (f) Section 202 (e) (1) of such Act (as amended by
6 section 401 (a) (2) (B) of this Act) is further amended by
7 redesignating the new subparagraphs (J) and (K) as sub-
8 paragraphs (K) and (L), respectively, and by adding after
9 subparagraph (I) the following new subparagraph:

10 " (J) in the case of a husband who has not attained
11 age 62, no child of such individual is entitled to a child's
12 insurance benefit,".

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

16 " (ii) was entitled, on the basis of such wages and
17 self-employment income, to father's insurance benefits
18 for the month preceding the month in which he attained
19 age 65,".

20 (h) Section 202 (f) (6) of such Act is amended by
21 striking out "or" at the end of subparagraph (A), by adding
22 "or" after the comma at the end of subparagraph (B), and
23 by adding after and below subparagraph (B) the following
24 new subparagraph:

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

4 EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY

5 BENEFICIARY

6 SEC. 407. (a) Section 202 (d) (5) of the Social Secu-
7 rity Act is amended by striking out “a male individual” in
8 the matter following subparagraph (B) and inserting in
9 lieu thereof “an individual”.

10 (b) The amendment made by subsection (a) of this
11 section shall be effective with respect to benefits under title
12 II of the Social Security Act for months after December
13 1977, but only in cases where the “last month” referred to
14 in section 202 (d) (5) of such Act is a month after December
15 1977.

16 EFFECT OF MARRIAGE ON OTHER DEPENDENTS’ OR DEPEND-

17 ENT SURVIVORS’ BENEFITS

18 SEC. 408. (a) Section 202 (c) (4) of the Social Se-
19 curity Act (as added by section 401 (a) (4) of this Act) is
20 further amended by inserting before the period at the end
21 thereof the following: “; except that, in the case of such a
22 marriage to an individual entitled to benefits under subsec-
23 tion (d), the preceding provisions of this paragraph shall not
24 apply with respect to benefits for months after the last month
25 for which such individual is entitled to such benefits under

1 subsection (d) unless she ceases to be so entitled by reason
2 of her death”.

3 (b) Section 202 (f) (4) of such Act is amended by in-
4 serting before the period at the end thereof the following:
5 “; except that, in the case of such a marriage to an individual
6 entitled to benefits under subsection (d), the preceding pro-
7 visions of this paragraph shall not apply with respect to
8 benefits for months after the last month for which such in-
9 dividual is entitled to such benefits under subsection (d)
10 unless she ceases to be so entitled by reason of her death”.

11 (c) Section 202 (h) (4) of such Act is amended by
12 striking out “a male individual” in the matter following
13 clause (B) and inserting in lieu thereof “an individual”.

14 (d) The amendments made by this section shall be
15 effective with respect to benefits under title II of the Social
16 Security Act for months after December 1977, but only in
17 cases where the “last month” referred to in section 202 (c)
18 (4), 202 (f) (4), 202 (g) (3), or 202 (h) (4) is a month
19 after December 1977.

20 TREATMENT OF SELF-EMPLOYMENT INCOME IN

21 COMMUNITY PROPERTY STATES

22 SEC. 409. (a) Section 211 (a) (5) (A) of the Social
23 Security Act and section 1402 (a) (5) (A) of the Internal
24 Revenue Code of 1954 are each amended by striking out
25 “husband unless the wife exercises substantially all of the

1 management and control of such trade or business, in which
2 case all of such gross income and deductions shall be treated
3 as the gross income and deductions of the wife” and inserting
4 in lieu thereof “spouse who exercises the greater manage-
5 ment and control over the trade or business”.

6 (b) The amendments made by subsection (a) shall be
7 effective with respect to taxable years beginning after De-
8 cember 1977.

9 CREDIT FOR CERTAIN MILITARY SERVICE

10 SEC. 410. Section 217 (f) of the Social Security Act
11 is amended by striking out “widow” each place it appears
12 and inserting in lieu thereof “surviving spouse”, and by
13 striking out “her” each place it appears in paragraph (2)
14 and inserting in lieu thereof “his”.

15 CONFORMING AMENDMENTS

16 SEC. 411. (a) Section 202 (b) (3) (A) of the Social
17 Security Act (as amended by section 401 (a) (6) of this
18 Act) is further amended by inserting “(g),” after “(f),”.

19 (b) Section 202 (p) (1) of such Act is amended by
20 striking out “subparagraph (C) of subsection (c) (1)”
21 and inserting in lieu thereof “subparagraph (D) of sub-
22 section (c) (1)”.

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

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

2 (1) by inserting “husband’s or” before “wife’s”
3 each place it appears;

4 (2) by inserting “he or” before “she” each place
5 it appears;

6 (3) by inserting “his or” before “her” each place
7 it appears;

8 (4) by striking out “woman” each place it ap-
9 pears and inserting in lieu thereof “individual”; and

10 (5) in subparagraph (D), by inserting “widower’s
11 or” before “widow’s”; by inserting “wife or” before
12 “husband” each place it appears; by inserting “wife’s
13 or” before “husband’s” each place it appears; and by
14 inserting “father’s or” before “mother’s”.

15 (e) (1) Section 202 (q) (6) (A) (i) of such Act is
16 amended by striking out “or husband’s insurance” in sub-
17 division (I), and by inserting “or husband’s” after “wife’s”
18 in subdivision (II).

19 (2) Section 202 (q) (7) of such Act is amended, in
20 subparagraph (B), by inserting “husband’s or” before
21 “wife’s”, by inserting “he or” before “she”, and by insert-
22 ing “his or” before “her”, and in subparagraph (D) by
23 inserting “or widower’s” after “widow’s”.

24 (f) (1) Section 202 (s) (1) of such Act is amended
25 by inserting “(c) (1),” after “(b) (1),”.

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

3 (3) Section 202 (s) (3) of such Act is amended by
4 inserting “(c) (4),” after “(b) (3),” and by inserting
5 “(f) (4),” after “(e) (3),”.

6 (g) Section 203 (a) (3) of such Act is amended by
7 inserting “, or as a divorced husband under section 202 (c)
8 or as a surviving divorced husband under section 202 (f),”
9 after “section 202 (e)”, by striking out “she” and inserting
10 in lieu thereof “he or she”; and by inserting “or divorced
11 husband or surviving divorced husband” after “such divorced
12 wife or surviving divorced wife”.

13 (h) The third sentence of section 203 (b) of such Act
14 is amended by inserting “or father’s” after “mother’s”.

15 (i) The text of section 203 (c) of such Act is amended
16 to read as follows—

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

23 “(1) in which such individual is under the age of
24 seventy-two and on seven or more different calendar

1 days of which such individual engaged in noncovered re-
2 munerative activity outside the United States; or

3 “(2) in which such individual, if a wife or husband
4 under age sixty-five entitled to a wife’s or husband’s
5 insurance benefit, did not have in his or her care (in-
6 dividually or jointly with his or her spouse) a child of
7 such spouse entitled to a child’s insurance benefit and
8 such wife’s or husband’s insurance benefit for such
9 month was not reduced under the provisions of section
10 202 (q) ; or

11 “(3) in which such individual, if a widow or wid-
12 ower entitled to a mother’s or father’s insurance benefit,
13 did not have in his or her care a child of his or her de-
14 ceased spouse entitled to a child’s insurance benefit; or

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

23 For purposes of paragraphs (2), (3), and (4) of this sub-
24 section, a child shall not be considered to be entitled to a

1 child's insurance benefit for any month in which paragraph
2 (1) of section 202 (s) applies or an event specified in sec-
3 tion 222 (b) occurs with respect to such child. Subject to
4 paragraph (3) of such section 202 (s), no deductions shall
5 be made under this subsection from any child's insurance
6 benefit for the month in which the child entitled to such
7 benefit attained the age of eighteen or any subsequent month;
8 nor shall any deduction be made under this subsection from
9 any widow's insurance benefits for any month in which the
10 widow or surviving divorced wife is entitled and has not
11 attained age sixty-five (but only if she became so entitled
12 prior to attaining age sixty), or from any widower's insur-
13 ance benefit for any month in which the widower or surviv-
14 ing divorced husband is entitled and has not attained age
15 sixty-five (but only if he became so entitled prior to attain-
16 ing age sixty).”.

17 (j) Section 203 (d) of such Act is amended by inserting
18 “divorced husband,” after “husband,” in paragraph (1),
19 and by inserting “or father's” after “mother's” each place it
20 appears in paragraph (2).

21 (k) (1) Section 205 (b) of such Act (as amended by
22 section 401 (d) (1) of this Act) is further amended by
23 inserting “surviving divorced father,” after “mother,”.

24 (2) Section 205 (c) (1) (C) of such Act (as amended
25 by section 401 (d) (2) of this Act) is further amended by

1 inserting "surviving divorced father," after "surviving
2 divorced mother,".

3 (l) Section 216 (f) of such Act is amended by inserting
4 "(c)," before "(f)" in clause (3) (A).

5 (m) Section 216 (g) of such Act is amended by insert-
6 ing "(c)", before "(f)" in clause (6) (A).

7 (n) Section 222 (b) (1) of such Act is amended by
8 striking out "or surviving divorced wife" and inserting in
9 lieu thereof ", surviving divorced wife, or surviving divorced
10 husband".

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

13 (p) Section 222 (b) (2) of such Act is amended by
14 inserting "or father's" after "mother's" each place it appears.

15 (q) Section 222 (d) (1) of such Act is amended by
16 inserting "and surviving divorced husbands" after "for
17 widowers" in the matter following clause (iii).

18 (r) Section 223 (d) (2) of such Act is amended by
19 striking out "or widower" where that term appears in sub-
20 paragraphs (A) and (B) and inserting in lieu thereof
21 "widower, or surviving divorced husband".

22 (s) Section 225 of such Act is amended by inserting "or
23 surviving divorced husband" after "widower".

24 (t) (1) Section 226 (h) (3) of such Act is amended to
25 read as follows:

1 “(3) For purposes of determining entitlement to hos-
2 pital insurance benefits under subsection (b), any disabled
3 widow age 50 or older who is entitled to mother’s insurance
4 benefits (and who would have been entitled to widow’s
5 insurance benefits by reason of disability if she had filed
6 for such widow’s benefits), and any disabled widower who
7 is entitled to father’s insurance benefits (and who would
8 have been entitled to widower’s insurance benefits by reason
9 of disability if he had filed for such widower’s benefits),
10 shall, upon application for such hospital insurance bene-
11 fits be deemed to have filed for such widow’s or widower’s
12 benefits.”.

13 (2) For purposes of determining entitlement to hospital
14 insurance benefits under section 226 (h) (3) of the Social
15 Security Act, as amended by paragraph (1) of this subsec-
16 tion, an individual becoming entitled to such hospital insur-
17 ance benefits as a result of the amendment made by such
18 paragraph shall, upon furnishing proof of such disability
19 within twelve months after the month of enactment of this
20 Act, under such procedures as the Secretary may prescribe,
21 be deemed to have been entitled to the widow’s or widower’s
22 benefits referred to in such section 226 (h) (3), as so
23 amended, as of the time such individual would have been
24 entitled to such widow’s or widower’s benefits if he or she
25 had filed a timely application therefor.

EFFECTIVE DATE

1

2 SEC. 412. Except as otherwise specifically provided in
3 this part, the amendments made by this part shall apply only
4 with respect to monthly benefits payable under title II of the
5 Social Security Act for months after December 1977.

6 PART B—EFFECT OF MARRIAGE, REMARRIAGE, AND
7 DIVORCE ON BENEFIT ELIGIBILITY

8 ELIMINATION OF MARRIAGE OR REMARRIAGE AS FACTOR
9 TERMINATING OR REDUCING BENEFITS

10 SEC. 415. (a) (1) Section 202 (b) (1) of the Social
11 Security Act is amended—

12 (A) by adding “and” at the end of subparagraph

13 (B),

14 (B) by striking out subparagraph (C),

15 (C) by striking out subparagraph (H), and

16 (D) by redesignating subparagraphs (D), (E),

17 (F), (G), (I), (J), and (K) as subparagraphs (C),

18 (D), (E), (F), (G), (H), and (I), respectively.

19 (2) Section 202 (b) of such Act is further amended by
20 striking out paragraph (3).

21 (b) (1) Section 202 (c) (1) of such Act (as amended
22 by sections 401 (a) (2) and 406 (f) of this Act) is
23 amended—

24 (A) by striking out subparagraph (C),

25 (B) by striking out subparagraph (I), and

1 (C) by redesignating subparagraphs (D), (E),
2 (F), (G), (H), (J), (K), and (L) as subparagraphs
3 (C), (D), (E), (F), (G), (H), (I), and (J),
4 respectively.

5 (2) Section 202 (c) of such Act is further amended by
6 striking out paragraph (4) (as added by section 401 (a)
7 (4) of this Act and amended by section 408 (a)).

8 (3) Section 202 (c) (2) of such Act (as amended by
9 section 401 (a) (5) of this Act) is further amended by
10 striking out “(D)” in the matter immediately preceding
11 subparagraph (A) and inserting in lieu thereof “(C)”.

12 (c) (1) Section 202 (d) (1) of such Act is amended—

13 (A) by striking out “was unmarried and” in sub-
14 paragraph (B), and

15 (B) by striking out “or marries,” in subparagraph
16 (D).

17 (2) Section 202 (d) of such Act is further amended by
18 striking out paragraph (5), and by redesignating paragraphs
19 (6) through (9) as paragraphs (5) through (8),
20 respectively.

21 (d) (1) Section 202 (e) (1) of such Act is amended—

22 (A) by striking out subparagraph (A),

23 (B) by striking out “paragraph (5)” in subpara-
24 graph (B) and inserting in lieu thereof “paragraph
25 (3)”.

1 (C) by striking out “subparagraph (B)” in sub-
2 paragraph (E) and inserting in lieu thereof “subpara-
3 graph (A)”;

4 (D) by striking out “subparagraph (B)”, “para-
5 graph (6)”, and “paragraph (5)” in subparagraph (F)
6 and inserting in lieu thereof “subparagraph (A)”,
7 “paragraph (4)”, and “paragraph (3)”, respectively,

8 (E) by striking out “remarries, dies,” in the matter
9 following subparagraph (F) and inserting in lieu there-
10 of “dies, or”, and

11 (F) by redesignating subparagraphs (B) through
12 (F) as subparagraphs (A) through (E), respectively.

13 (2) Section 202 (e) (2) (A) of such Act is amended by
14 striking out “, paragraph (4) of this subsection,”.

15 (3) Section 202 (e) of such Act is further amended by
16 striking out paragraphs (3) and (4), and by redesignating
17 paragraphs (5), (6), and (7) as paragraphs (3), (4), and
18 (5), respectively.

19 (4) The paragraph of section 202 (e) of such Act re-
20 designated as paragraph (3) by paragraph (3) of this sub-
21 section is amended by striking out “(1) (B) (ii)” and in-
22 serting in lieu thereof “(1) (A) (ii)”.

23 (5) The paragraph of section 202 (e) of such Act re-
24 designated as paragraph (4) by paragraph (3) of this sub-
25 section is amended—

1 (A) by striking out “paragraph (1) (F)” and in-
2 serting in lieu thereof “paragraph (1) (E)”, and

3 (B) by striking out “paragraph (5)” and inserting
4 in lieu thereof “paragraph (3)”.

5 (e) (1) Section 202 (f) (1) of such Act (as amended
6 by the preceding provisions of this title) is further
7 amended—

8 (A) by striking out subparagraph (A),

9 (B) by striking out “paragraph (6)” in subpara-
10 graph (B) and inserting in lieu thereof “paragraph
11 (4)”,

12 (C) by striking out “subparagraph (B)” in sub-
13 paragraph (F) and inserting in lieu thereof “subpara-
14 graph (A)”,

15 (D) by striking out “subparagraph (B)”, “para-
16 graph (7)”, and “paragraph (6)” in subparagraph
17 (G) and inserting in lieu thereof “subparagraph (A)”,
18 “paragraph (5)” and “paragraph (4)”, respectively,

19 (E) by striking out “remarries,” in the matter fol-
20 lowing subparagraph (G), and

21 (F) by redesignating subparagraphs (B) through
22 (G) as subparagraphs (A) through (F), respectively.

23 (2) Section 202 (f) (2) of such Act is amended by
24 striking out “subparagraph (D)” and inserting in lieu
25 thereof “subparagraph (C)”.

1 (3) Section 202 (f) (3) (A) of such Act is amended
2 by striking out “, paragraph (5) of this subsection,”.

3 (4) Section 202 (f) of such Act is further amended by
4 striking out paragraphs (4) and (5), and by redesignating
5 paragraphs (6), (7), and (8) as paragraphs (4), (5),
6 and (6), respectively.

7 (5) The paragraph of section 202 (f) of such Act re-
8 designated as paragraph (4) by paragraph (4) of this sub-
9 section is amended by striking out “(1) (B) (ii)” and in-
10 serting in lieu thereof “(1) (A) (ii)”.

11 (6) The paragraph of section 202 (f) of such Act re-
12 designated as paragraph (5) by paragraph (4) of this sub-
13 section is amended by striking out “paragraph (1) (G)”
14 and “paragraph (6)” and inserting in lieu thereof “para-
15 graph (1) (F)” and “paragraph (4)”, respectively.

16 (f) (1) Section 202 (g) (1) of such Act (as amended
17 by section 406 (a) of this Act) is further amended—

18 (A) by striking out subparagraph (A),

19 (B) by striking out “subparagraph (E)” in sub-
20 paragraph (F) (i) and inserting in lieu thereof “sub-
21 paragraph (D)”,

22 (C) by striking out “he remarries,” in the matter
23 following subparagraph (F), and

24 (D) by redesignating subparagraphs (B) through
25 (F) as subparagraphs (A) through (E), respectively.

1 (2) Section 202 (g) of such Act is further amended by
2 striking out paragraph (3).

3 (g) (1) Section 202 (h) (1) of such Act is amended—

4 (A) by striking out such paragraph (C),

5 (B) by striking out “marries,” in the matter fol-
6 lowing subparagraph (E), and

7 (C) by redesignating subparagraphs (D) and (E)
8 as subparagraphs (C) and (D) respectively.

9 (2) Section 202 (h) of such Act is further amended by
10 striking out paragraph (4).

11 (h) Section 202 (p) (1) of such Act (as amended by
12 section 411 (a) (4) of this Act) is further amended by
13 striking out “subparagraph (D) of subsection (c) (1), clause
14 (i) or (ii) of subparagraph (D) of subsection (f) (1)”
15 and inserting in lieu thereof “subparagraph (C) of sub-
16 section (c) (1), clause (i) or (ii) of subparagraph (C)
17 of subsection (f) (1)”.

18 (i) (1) Section 202 (s) (2) of such Act is repealed.

19 (2) Section 202 (s) (3) of such Act (as amended by
20 section 411 (a) (2) of this Act) is further amended by
21 striking out “so much of subsections (b) (3), (c) (4),
22 (d) (5), (e) (3), (f) (4), (g) (3), and (h) (4) of this
23 section as follows the semicolon,”.

1 DURATION-OF-MARRIAGE REQUIREMENT FOR DIVORCED
2 SPOUSES AND SURVIVING DIVORCED SPOUSES

3 SEC. 416. (a) Section 216(d) of the Social Security
4 Act is amended by striking out "20 years" in paragraphs
5 (1) and (2), and in paragraphs (4) and (5) (as added by
6 section 401(c)(1) of this Act), and inserting in lieu thereof
7 in each instance "5 years".

8 (b) Section 202(b)(1)(F) of such Act (as redesignig-
9 nated by section 415(a)(1)(D) of this Act) is amended
10 by striking out "20 years" and inserting in lieu thereof
11 "5 years".

12 (c) Section 202(c)(1)(G) of such Act (as added by
13 section 401(a)(2)(C) of this Act and redesignated by
14 section 415(b)(1)(C)) is amended by striking out "20
15 years" and inserting in lieu thereof "5 years".

16 EFFECTIVE DATE

17 SEC. 417. (a) The amendments made by this part shall
18 apply only with respect to monthly benefits payable under
19 title II of the Social Security Act for months after December
20 1978, and, in the case of individuals who are not entitled
21 to benefits of the type involved under such title for December
22 1978, only on the basis of applications filed on or after
23 January 1, 1979.

1 (b) An individual whose entitlement to monthly in-
2 surance benefits under subsection (b), (c), (d), (e), (f),
3 (g), or (h) of section 202 of the Social Security Act
4 terminated on account of such individual's marriage or re-
5 marriage prior to January 1979 may again become entitled
6 to such benefits (provided no event which would otherwise
7 terminate such entitlement has since occurred) beginning
8 with January 1979 or, if later, with the first month (after
9 January 1979) in which he files application for such reen-
10 titlement. The reentitlement of such individual to benefits
11 under such subsection (and the entitlement to other persons
12 to benefits under title II of the Social Security Act to the
13 extent related to such individual or his entitlement) shall
14 be treated for all the purposes of title II of the Social Security
15 Act as though such reentitlement were the individual's initial
16 entitlement.

17 **PART C—STUDY**

18 **STUDY OF PROPOSALS TO ELIMINATE DEPENDENCY AND SEX**
19 **DISCRIMINATION UNDER THE SOCIAL SECURITY**
20 **PROGRAM**

21 **SEC. 421. (a)** The Secretary of Health, Education, and
22 Welfare, in consultation with the Task Force on Sex Dis-
23 crimination in the Department of Justice, shall undertake
24 and carry out, within the Department of Health, Education,
25 and Welfare and the Social Security Administration, a de-
26 tailed study of proposals to eliminate dependency as a factor

1 in the determination of entitlement to spouse's benefits under
2 the social security program, and of proposals to bring about
3 equal treatment of men and women in any and all respects
4 under such program, taking into account the practical effects
5 (particularly the effect upon women's entitlement to such
6 benefits) of such things as—

7 (1) changes in the nature and extent of women's
8 participation in the labor force,

9 (2) the increasing divorce rate, and

10 (3) the economic value of women's work in the
11 home.

12 The study shall include appropriate cost analyses.

13 (b) The Secretary shall submit to the Congress within
14 six months after the date of the enactment of this Act a full
15 and complete report on the study carried out under sub-
16 section (a).

17 **TITLE V—CHANGES IN EARNINGS TEST UNDER**
18 **THE OLD-AGE, SURVIVORS, AND DISABILITY**
19 **INSURANCE PROGRAM**

20 **LIBERALIZATION OF EARNINGS TEST**

21 **SEC. 501. (a)** Section 203 (f) (8) (B) of the Social
22 Security Act is amended by striking out "The exempt
23 amount" in the matter preceding clause (i) and inserting
24 in lieu thereof "Except as provided in subparagraph (D),
25 the exempt amount".

1 (b) Section 203 (f) (8) of such Act is further amended
2 by adding at the end thereof the following new sub-
3 paragraph:

4 “(D) Notwithstanding any other provision of this
5 subsection, the exempt amount—

6 “(i) shall be \$375 for each month of any tax-
7 able year ending after 1977 and before 1979, and

8 “(ii) shall be \$500 for each month of any
9 taxable year ending after 1978 and before 1980.”.

10 (c) No determination or publication of a new exempt
11 amount shall be required to be made under section 203 (f)
12 (8) (A) of the Social Security Act, and no notification with
13 respect to an increased exempt amount shall be required to
14 be given under the last sentence of section 203 (f) (8) (B)
15 of such Act, in the calendar year 1978 (and section 203 (f)
16 (8) (C) of such Act shall apply with respect to any exempt
17 amount determined and published under such section 203
18 (f) (8) (A) in 1977); but such a determination, publica-
19 tion, and notification shall be required in calendar years
20 after 1978 and shall be made or given as though the dollar
21 amounts specified in clauses (i) and (ii) of section 203 (f)
22 (8) (D) of such Act (as added by subsection (b) of this
23 section) had been determined (for the taxable years in-
24 volved) under such section 203 (f) (8) (B).

1 (d) Subsections (f) (1), (f) (3), (f) (4) (B), and
2 (h) (1) (A) of section 203 of such Act are amended by
3 striking out "\$200 or".

4 (e) The amendments made by this section shall apply
5 with respect to taxable years ending after December 1977.

6 ELIMINATION OF MONTHLY EARNINGS TEST

7 SEC. 502. (a) (1) The last sentence of section 203 (f)
8 (1) of the Social Security Act is amended by inserting
9 "or" before (D), and by striking out ", or (E)" and all
10 that follows and inserting in lieu thereof a period.

11 (2) Section 203 (f) (3) of such Act is amended by
12 striking out "except that, in determining" and inserting in
13 lieu thereof the following: "except that (A) in determining
14 an individual's excess earnings for any taxable year in which
15 he first becomes entitled to a monthly benefit under sub-
16 section (a), (b), (c), (d), (e), (f), (g), or (h) of
17 section 202 (and in which he was not entitled to a monthly
18 benefit under any other such subsection for a month prior
19 to the first month of such entitlement), there shall be ex-
20 cluded any earnings of such individual for any month prior
21 to the first month of such entitlement (with any net earn-
22 ings or net loss from self-employment in such year being
23 prorated in an equitable manner under regulations of the
24 Secretary), and (B) in determining".

1 (b) (1) Section 203 (f) (2) of such Act is amended
2 by striking out “(D), and (E)” and inserting in lieu
3 thereof “and (D)”.

4 (2) Section 203 (f) (4) of such Act is repealed.

5 (c) The amendments made by this section shall apply
6 only with respect to monthly benefits payable for months
7 after December 1977.

8 TITLE VI—COMBINED SOCIAL SECURITY AND
9 INCOME TAX ANNUAL REPORTING

10 PART A—AMENDMENTS TO TITLE II OF THE SOCIAL
11 SECURITY ACT

12 ANNUAL CREDITING OF QUARTERS OF COVERAGE

13 SEC. 601. (a) (1) Sections 209 (g) (3), 209 (j), 210
14 (a) (17) (A), and 210 (f) (4) (B) of the Social Security
15 Act are each amended by striking out “quarter” wherever
16 it appears and inserting in lieu thereof “year”.

17 (2) Sections 209 (g) (3) and 209 (j) of such Act are
18 each further amended by striking out “\$50” and inserting
19 in lieu thereof “\$100”.

20 (3) (A) Section 209 of such Act is amended by strik-
21 ing out “or” at the end of subsection (n), by striking out the
22 period at the end of subsection (o) and inserting in lieu
23 thereof “; or”, and by inserting after subsection (o) the fol-
24 lowing new subsection:

1 “(p) Remuneration paid by an organization exempt
2 from income tax under section 501 of the Internal Revenue
3 Code of 1954 in any calendar year to an employee for
4 service rendered in the employ of such organization, if the
5 remuneration paid in such year by the organization to the
6 employee for such service is less than \$100.”.

7 (B) Section 210 (a) (10) of such Act is amended by
8 striking out “(10) (A)” and all that follows down through
9 “(B) Service” and inserting in lieu thereof “(10) Service”,
10 and by redesignating clauses (i) and (ii) as subparagraphs
11 (A) and (B), respectively.

12 (b) Section 212 of such Act is amended to read as
13 follows:

14 “CREDITING OF SELF-EMPLOYMENT INCOME TO
15 CALENDAR YEARS

16 “SEC. 212. (a) For the purposes of determining aver-
17 age monthly wage and quarters of coverage the amount of
18 self-employment income derived during any taxable year
19 which begins before 1978 shall—

20 “(1) in the case of a taxable year which is a calen-
21 dar year, be credited equally to each quarter of such
22 calendar year; and

23 “(2) in the case of any other taxable year, be
24 credited equally to the calendar quarter in which such

1 taxable year ends and to each of the next three or fewer
2 preceding quarters any part of which is in such taxable
3 year.

4 “(b) For the purposes of determining average indexed
5 monthly earnings, average monthly wage, and quarters of
6 coverage the amount of self-employment income derived dur-
7 ing any taxable year which begins after 1977 shall—

8 “(1) in the case of a taxable year which is a
9 calendar year or which begins with or during a calendar
10 year and ends with or during such year, be credited to
11 such calendar year; and

12 “(2) in the case of any other taxable year, be
13 allocated proportionately to the two calendar years,
14 portions of which are included within such taxable year,
15 on the basis of the number of months in each such
16 calendar year which are included completely within the
17 taxable year.

18 For purposes of clause (2), the calendar month in which a
19 taxable year ends shall be treated as included completely
20 within that taxable year.”.

21 (c) Section 213 (a) (2) of such Act is amended to read
22 as follows:

23 “(2) (A) The term ‘quarter of coverage’ means—

24 “(i) for calendar years before 1978, and subject to

1 the provisions of subparagraph (B), a quarter in which
2 an individual has been paid \$50 or more in wages
3 (except wages for agricultural labor paid after 1954)
4 or for which he has been credited (as determined
5 under section 212) with \$100 or more of self-employ-
6 ment income; and

7 “(ii) for calendar years after 1977, and subject
8 to the provisions of subparagraph (B), each portion of
9 the total of the wages paid and the self-employment
10 income credited (pursuant to section 212) to an individ-
11 ual in a calendar year which equals \$250, with such
12 quarter of coverage being assigned to a specific calendar
13 quarter in such calendar year only if necessary in the
14 case of any individual who has attained age 62 or died
15 or is under a disability and the requirements for insured
16 status in subsection (a) or (b) of section 214, the
17 requirements for entitlement to a computation or re-
18 computation of his primary insurance amount, or the
19 requirements of paragraph (3) of section 216(i) would
20 not otherwise be met.

21 “(B) Notwithstanding the provisions of subparagraph
22 (A) —

23 “(i) no quarter after the quarter in which an
24 individual dies shall be a quarter of coverage, and no

1 quarter any part of which is included in a period of
2 disability (other than the initial quarter and the last
3 quarter of such period) shall be a quarter of coverage;

4 “(ii) if the wages paid to an individual in any
5 calendar year equal to \$3,000 in the case of a calendar
6 year before 1951, or \$3,600 in the case of a calendar
7 year after 1950 and before 1955, or \$4,200 in the case
8 of a calendar year after 1954 and before 1959, or \$4,800
9 in the case of a calendar year after 1958 and before 1966,
10 or \$6,600 in the case of a calendar year after 1965 and
11 before 1968, or \$7,800 in the case of a calendar year
12 after 1967 and before 1972, or \$9,000 in the case of the
13 calendar year 1972, or \$10,800 in the case of the calen-
14 dar year 1973, or \$13,200 in the case of the calendar
15 year 1974, or an amount equal to the contribution and
16 benefit base (as determined under section 230) in the
17 case of any calendar year after 1974 with respect to
18 which contribution and benefit base is effective, each
19 quarter of such year shall (subject to clauses (i) and
20 (v)) be a quarter of coverage;

21 “(iii) if an individual has self-employment income
22 for a taxable year, and if the sum of such income and
23 the wages paid to him during such year equals \$3,600
24 in the case of a taxable year beginning after 1950 and
25 ending before 1955, or \$4,200 in the case of a taxable

1 year ending after 1954 and before 1959, or \$4,800 in
2 the case of a taxable year ending after 1958 and before
3 1966, or \$6,600 in the case of a taxable year ending
4 after 1965 and before 1968, or \$7,800 in the case of
5 a taxable year ending after 1967 and before 1972, or
6 \$9,000 in the case of a taxable year beginning after
7 1971 and before 1973, or \$10,800 in the case of a tax-
8 able year beginning after 1972 and before 1974, or
9 \$13,200 in the case of a taxable year beginning after
10 1973 and before 1975, or an amount equal to the con-
11 tribution and benefit base (as determined under section
12 230) which is effective for the calendar year in the case
13 of any taxable year beginning in any calendar year after
14 1974, each quarter any part of which falls in such year
15 shall (subject to clauses (i) and (v)) be a quarter of
16 coverage;

17 “(iv) if an individual is paid wages for agricultural
18 labor in a calendar year after 1954 and before 1978,
19 then, subject to clauses (i) and (v), (I) the last quar-
20 ter of such year which can be but is not otherwise a
21 quarter of coverage shall be a quarter of coverage if such
22 wages equal or exceed \$100 but are less than \$200;
23 (II) the last two quarters of such year which can be
24 but are not otherwise quarters of coverage shall be
25 quarters of coverage if such wages equal or exceed \$200

1 but are less than \$300; (III) the last three quarters of
2 such year which can be but are not otherwise quarters
3 of coverage shall be quarters of coverage if such wages
4 equal or exceed \$300 but are less than \$400; and (IV)
5 each quarter of such year which is not otherwise a quar-
6 ter of coverage shall be a quarter of coverage if such
7 wages are \$400 or more;

8 “(v) no quarter shall be counted as a quarter of
9 coverage prior to the beginning of such quarter;

10 “(vi) not more than one quarter of coverage may
11 be credited to a calendar quarter; and

12 “(vii) no more than four quarters of coverage may
13 be credited to any calendar year after 1977.

14 If in the case of an individual who has attained age 62 or
15 died or is under a disability and who has been paid wages
16 for agricultural labor in a calendar year after 1954 and
17 before 1978, the requirements for insured status in subsec-
18 tion (a) or (b) of section 214, the requirements for entitle-
19 ment to a computation or recomputation of his primary
20 insurance amount, or the requirements of paragraph (3)
21 of section 216 (i) are not met after assignment of quarters
22 of coverage to quarters in such year as provided in clause
23 (iv) of the preceding sentence, but would be met if such
24 quarters of coverage were assigned to different quarters in

1 such year, then such quarters of coverage shall instead be
2 assigned, for purposes only of determining compliance with
3 such requirements, to such different quarters. If, in the case
4 of an individual who did not die prior to January 1, 1955,
5 and who attained age 62 (if a woman) or age 65 (if a man)
6 or died before July 1, 1957, the requirements for insured
7 status in section 214(a)(3) are not met because of his
8 having too few quarters of coverage but would be met if his
9 quarters of coverage in the first calendar year in which he
10 had any covered employment had been determined on the
11 basis of the period during which wages were earned rather
12 than on the basis of the period during which wages were paid
13 (any such wages paid that are reallocated on an earned basis
14 shall not be used in determining quarters of coverage for sub-
15 sequent calendar years), then upon application filed by the
16 individual or his survivors and satisfactory proof of his record
17 of wages earned being furnished by such individual or his
18 survivors, the quarters of coverage in such calendar year may
19 be determined on the basis of the periods during which wages
20 were earned.”

21 (d) The amendments made by subsection (a) shall
22 apply with respect to remuneration paid and services ren-
23 dered after December 31, 1977. The amendments made by
24 subsections (b) and (c) shall be effective January 1, 1978.

1 ADJUSTMENT IN AMOUNT REQUIRED FOR A QUARTER OF
2 COVERAGE

3 SEC. 602. (a) Section 213 (a) (2) (A) (ii) of the
4 Social Security Act, as amended by section 601 (c) of this
5 Act, is amended by striking out "\$250" and inserting in
6 lieu thereof "the amount required for a quarter of coverage
7 in that calendar year (as determined under subsection
8 (e))".

9 (b) Section 213 of such Act is further amended by
10 adding at the end thereof (after the new subsection added
11 by section 304 of this Act) the following new subsection:

12 "Amount Required for a Quarter of Coverage

13 "(e) (1) The amount of wages paid and self-employ-
14 ment income credited to an individual required for a quarter
15 of coverage in any year under subsection (a) (2) (A) (ii)
16 shall be \$250 in the calendar year 1978 and the amount
17 determined under paragraph (2) of this subsection for years
18 after 1978.

19 "(2) The Secretary shall, on or before November 1 of
20 1978 and of every year thereafter, determine and publish
21 in the Federal Register the amount of wages paid and self-
22 employment income credited to an individual required for a
23 quarter of coverage in the succeeding calendar year. The
24 amount required for a quarter of coverage shall be the larger
25 of—

1 “(A) the amount in effect in the calendar year in
2 which the determination under this subsection is made,
3 or

4 “(B) the product of the amount prescribed in para-
5 graph (1) which is required for a quarter of coverage
6 in 1978 and the ratio of the average of the total wages
7 (as defined in regulations of the Secretary and computed
8 without regard to the limitations specified in section 209
9 (a)) reported to the Secretary of the Treasury or his
10 delegate for the calendar year before the year in which
11 the determination under this paragraph is made to the
12 average of the total wages (as so defined and computed)
13 reported to the Secretary of the Treasury or his delegate
14 for 1976,

15 with such product, if not a multiple of \$10, being rounded
16 to the next higher multiple of \$10 where such amount is a
17 multiple of \$5 but not of \$10 and to the nearest multiple of
18 \$10 in any other case.”.

19 (c) The amendments made by this section shall be
20 effective January 1, 1978.

21 **TECHNICAL AND CONFORMING AMENDMENTS**

22 SEC. 603. (a) (1) Section 203 (f) (8) (B) (i) of the
23 Social Security Act is amended by striking out “was” wher-
24 ever it appears and inserting in lieu thereof “is”.

1 (2) Section 203 (f) (8) (B) (ii) of such Act is amended
2 to read as follows:

3 “(ii) the product of the exempt amount de-
4 scribed in clause (i) and the ratio of (I) the aver-
5 age of the total wages (as defined in regulations of
6 the Secretary and computed without regard to the
7 limitations specified in section 209 (a)) reported to
8 the Secretary of the Treasury or his delegate for the
9 calendar year before the calendar year in which the
10 determination under subparagraph (A) is made to
11 (II) the average of the total wages (as so defined
12 and computed) reported to the Secretary of the
13 Treasury or his delegate for the calendar year
14 before the most recent calendar year in which
15 an increase in the exempt amount was en-
16 acted or a determination resulting in such an in-
17 crease was made under subparagraph (A), with
18 such product, if not a multiple of \$10, being
19 rounded to the next higher multiple of \$10
20 where such product is a multiple of \$5 but not
21 of \$10 and to the nearest multiple of \$10 in any
22 other case.”.

23 (b) (1) The first sentence of section 218 (c) (8) of such
24 Act is amended by striking out “quarter” wherever it ap-

1 pears and inserting in lieu thereof "year", and by striking
2 out "\$50" and inserting in lieu thereof "\$100".

3 (2) Section 218 (q) (4) (B) of such Act is amended
4 by striking out "any calendar quarters" and inserting in lieu
5 thereof "a calendar year", and by striking out "such calendar
6 quarters" and inserting in lieu thereof "such calendar year".

7 (3) Section 218 (q) (6) (B) of such Act is amended
8 by striking out "calendar quarters designated by the State in
9 such wage reports as the" and inserting in lieu thereof
10 "period or periods designated by the State in such wage
11 reports as the period or".

12 (4) Section 218 (r) (1) of such Act is amended—

13 (A) by striking out "quarter" in the matter before
14 clause (A) and inserting in lieu thereof "year",

15 (B) by striking out "in which occurred the calendar
16 quarter" in clause (A), and

17 (C) by striking out "quarter" in clause (B) and
18 inserting in lieu thereof "year".

19 (c) (1) Effective with respect to estimations for calen-
20 dar years beginning after December 31, 1977, section 224
21 (a) of such Act is amended by striking out the last sentence.

22 (2) Section 224 (f) (2) of such Act is amended to read
23 as follows:

24 "(2) In making the redetermination required by para-

1 graph (1), the individual's average current earnings (as
2 defined in subsection (a)) shall be deemed to be the
3 product of—

4 “(A) his average current earnings as initially
5 determined under subsection (a);

6 “(B) the ratio of (i) the average of the total wages
7 (as defined in regulations of the Secretary and computed
8 without regard to the limitations specified in section
9 209 (a)) reported to the Secretary of the Treasury or
10 his delegate for the calendar year before the year in
11 which such redetermination is made to (ii) the average
12 of the total wages (as so defined and computed) re-
13 ported to the Secretary of the Treasury or his delegate
14 for calendar year 1977 or, if later, the calendar year
15 before the year in which the reduction was first com-
16 puted (but not counting any reduction made in benefits
17 for a previous period of disability); and

18 “(C) in any case in which the reduction was first
19 computed before 1978, the ratio of (i) the average of
20 the taxable wages reported to the Secretary for the
21 first calendar quarter of 1977 to (ii) the average of the
22 taxable wages reported to the Secretary for the first
23 calendar quarter of the calendar year before the year in
24 which the reduction was first computed (but not count-

1 ing any reduction made in benefits for a previous period
2 of disability).

3 Any amount determined under this paragraph which is not
4 a multiple of \$1 shall be reduced to the next lower multiple
5 of \$1.”.

6 (d) Section 229 (a) of such Act is amended—

7 (1) by striking out “shall be deemed to have been
8 paid, in each calendar quarter occurring after 1956 in
9 which he” and inserting in lieu thereof “, if he”, and

10 (2) by striking out “wages (in addition to the
11 wages actually paid to him for such service) of \$300.”
12 at the end thereof and inserting in lieu thereof the
13 following: “shall be deemed to have been paid—

14 “(1) in each calendar quarter occurring after 1956
15 and before 1978 in which he was paid such wages, addi-
16 tional wages of \$300, and

17 “(2) in each calendar year occurring after 1977
18 in which he was paid such wages, additional wages of
19 \$100 for each \$300 of such wages, up to a maximum
20 of \$1,200 of additional wages for any calendar year.”.

21 (e) (1) Section 230 (b) of such Act is amended by
22 striking out the last sentence.

23 (2) Section 230 (b) (1) of such Act is amended to
24 read as follows:

1 “(1) the contribution and benefit base which is in
2 effect with respect to remuneration paid in (and taxable
3 years beginning in) the calendar year in which the
4 determination under subsection (a) is made, and”.

5 (3) Section 230 (b) (2) of such Act is amended to
6 read as follows:

7 “(2) the ratio of (A) the average of the total
8 wages (as defined in regulations of the Secretary and
9 computed without regard to the limitations specified in
10 section 209 (a)) reported to the Secretary of the Treas-
11 ury or his delegate for the calendar year before the
12 calendar year in which the determination under subsec-
13 tion (a) is made to (B) the average of the total wages
14 (as so defined and computed) reported to the Secretary
15 of the Treasury or his delegate for the calendar year
16 before the most recent calendar year in which an in-
17 crease in the contribution and benefit base was enacted
18 or a determination resulting in such an increase was
19 made under subsection (a),”.

20 (f) (1) Effective with respect to convictions after De-
21 cember 31, 1977, section 202 (u) (1) (C) of such Act is
22 amended by striking out “quarter” wherever it appears and
23 inserting in lieu thereof “year”.

24 (2) (A) Section 205 (c) (1) of such Act is amended by
25 striking out “ (as defined in section 211 (e)) ”.

1 (B) Section 205 (c) (1) of such Act is further amended
2 by adding at the end thereof the following new subpara-
3 graph:

4 “(D) The term ‘period’ when used with respect to
5 self-employment income means a taxable year and when
6 used with respect to wages means—

7 “(i) a quarter if wages were reported or should
8 have been reported on a quarterly basis on tax
9 returns filed with the Secretary of the Treasury or
10 his delegate under section 6011 of the Internal Rev-
11 enue Code of 1954 or regulations thereunder (or
12 on reports filed by a State under section 218 (e)
13 or regulations thereunder),

14 “(ii) a year if wages were reported or should
15 have been reported on a yearly basis on such tax re-
16 turns or reports, or

17 “(iii) the half year beginning January 1 or
18 July 1 in the case of wages which were reported or
19 should have been reported for calendar year 1937.”.

20 (C) Section 205 (o) of such Act is amended by insert-
21 ing “before 1978” after “calendar year”.

22 (g) The amendments made by subsection (b) of this
23 section shall apply with respect to remuneration paid after
24 December 31, 1977. The amendments made by subsections
25 (d) and (f) (2) shall be effective January 1, 1978. Except

1 as otherwise specifically provided, the remaining amend-
2 ments made by this section shall be effective January 1,
3 1979.

4 PART B—AMENDMENTS TO THE INTERNAL REVENUE
5 CODE OF 1954

6 DEDUCTION OF TAX FROM WAGES

7 SEC. 611. (a) Section 3102 (a) of the Internal Reve-
8 nue Code of 1954 is amended by striking out “or (C) or
9 (10)”, and by inserting after “is less than \$50;” the fol-
10 lowing: “and an employer who in any calendar year pays
11 to an employee cash remuneration to which paragraph (7)
12 (C) or (10) of section 3121 (a) is applicable may deduct
13 an amount equivalent to such tax from any such payment of
14 remuneration, even though at the time of payment the total
15 amount of such remuneration paid to the employee by the
16 employer in the calendar year is less than \$100;”.

17 (b) (1) Paragraphs (1) and (2) of section 3102 (c)
18 of such Code are each amended by striking out “quarter”
19 wherever it appears and by inserting in lieu thereof “year”.

20 (2) Paragraph (3) of section 3102 (c) of such Code
21 is amended—

22 (A) by striking out “quarter of the” in subpara-
23 graph (A) ; and

1 (B) by striking out "quarter" wherever it appears
2 in subparagraphs (B) and (C) and inserting in lieu
3 thereof "year".

4 (c) The amendments made by this section shall apply
5 with respect to remuneration paid and to tips received after
6 December 31, 1977.

7 TECHNICAL AND CONFORMING AMENDMENTS

8 SEC. 612. (a) Sections 3121(a)(7)(C) and 3121
9 (a)(10) of the Internal Revenue Code of 1954 are each
10 amended by striking out "quarter" wherever it appears and
11 inserting in lieu thereof "year", and by striking out "\$50"
12 and inserting in lieu thereof "\$100".

13 (b) Section 3121(a) of such Code is amended by strik-
14 ing out "or" at the end of paragraph (14), by striking out
15 the period at the end of paragraph (15) and inserting in lieu
16 thereof "; or", and by adding after paragraph (15) the
17 following new paragraph:

18 "(16) remuneration paid by an organization
19 exempt from income tax under section 501(a) (other
20 than an organization described in section 401(a)) or
21 under section 521 in any calendar year to an employee
22 for service rendered in the employ of such organization,
23 if the remuneration paid in such year by the organiza-

1 tion to the employee for such service is less than \$100.”.

2 (c) Section 3121 (b) (10) of such Code is amended by
3 striking out “(10) (A)” and all that follows down through
4 “(B) service” and inserting in lieu thereof “(10) service”,
5 and redesignating clauses (i) and (ii) as subparagraphs
6 (A) and (B), respectively.

7 (d) Sections 3121 (b) (17) (A) and 3121 (g) (4) (B)
8 of such Code are each amended by striking out “quarter” and
9 inserting in lieu thereof “year”.

10 (e) The amendments made by this section shall apply
11 with respect to remuneration paid and services rendered after
12 December 31, 1977.

13 **PART C—CONFORMING AMENDMENT TO THE RAILROAD**

14 **RETIREMENT ACT OF 1974**

15 **COMPUTATION OF EMPLOYEE ANNUITIES**

16 **SEC. 621.** (a) The last sentence of section 3 (f) (1) of
17 the Railroad Retirement Act of 1974 is amended—

18 (1) by inserting “paid before 1978” after “in the
19 case of wages”, and

20 (2) by inserting “and in the case of wages paid
21 after 1977” before the period at the end thereof.

22 (b) The amendments made by this section shall be
23 effective January 1, 1978.

1 TITLE VII—MISCELLANEOUS PROVISIONS

2 ELIMINATION OF CERTAIN OPTIONAL PAYMENT PROCE-
3 DURES UNDER THE OLD-AGE, SURVIVORS, AND DISA-
4 BILITY INSURANCE PROGRAM

5 SEC. 701. (a) (1) The first sentence of section 202 (j)
6 (1) of the Social Security Act is amended by striking out
7 “An individual” and inserting “Subject to the limitations
8 contained in paragraph (4), an individual” in lieu thereof.

9 (2) Section 202 (j) of such Act is further amended by
10 inserting at the end thereof the following new paragraph:

11 “(4) (A) Except as provided in subparagraph (B), no
12 individual shall be entitled to benefits under subsection (a),
13 (b), (c), (e), or (f) for any month prior to the month
14 in which he or she files an application for such benefits if the
15 effect of such payment would be to reduce, pursuant to
16 subsection (q), the monthly benefits to which such indi-
17 vidual would otherwise be entitled.

18 “(B) (i) If the individual applying for retroactive
19 benefits is applying for such benefits under subsection (a),
20 and there are one or more other persons who would, except
21 for subparagraph (A), be entitled for any month, on the
22 basis of the wages and self-employment income of such in-
23 dividual and because of such individual’s entitlement to such

1 retroactive benefits, to retroactive benefits under subsection
2 (b), (c), or (d) not subject to reduction under subsection
3 (q), then subparagraph (A) shall not apply with respect
4 to such month or any subsequent month.

5 “(ii) If the individual applying for retroactive benefits
6 is a surviving spouse, or surviving divorced spouse who is
7 under a disability (as defined in section 223 (d)), and such
8 individual would, except for subparagraph (A), be entitled
9 to retroactive benefits as a disabled surviving spouse, or
10 surviving divorced spouse for any month before he or she
11 attained the age of 60, then subparagraph (A) shall not
12 apply with respect to such month or any subsequent month.

13 “(iii) If the individual applying for retroactive benefits
14 has excess earnings (as defined in section 203 (f)) in the
15 year in which he or she files an application for such benefits
16 which could, except for subparagraph (A), be charged to
17 months in such year prior to the month of application, then
18 subparagraph (A) shall not apply to so many of such
19 months immediately preceding the month of application as
20 are required to charge such excess earnings to the maximum
21 extent possible.”.

22 (3) Section 226 (h) of such Act is amended by adding
23 at the end thereof the following new paragraph:

24 “(4) For the purposes of determining entitlement to
25 hospital insurance benefits under subsection (b) in the case

1 of an individual described in clause (iii) of subsection (b)
2 (2) (A), the entitlement of such individual to widow's or
3 widower's insurance benefits under section 202 (e) or (f)
4 by reason of a disability shall be deemed to be the entitle-
5 ment to such benefits that would result if such entitlement
6 were determined without regard to the provisions of sec-
7 tion 202 (j) (4).”.

8 (b) The amendments made by this section shall be
9 effective with respect to applications for benefits under title
10 II of the Social Security Act filed after September 30, 1977.

11 EARLY MAILING OF BENEFIT CHECKS WHERE REGULARLY
12 SCHEDULED DELIVERY DAY FALLS ON SATURDAY, SUN-
13 DAY, OR LEGAL HOLIDAY

14 SEC. 702. (a) Title VII of the Social Security Act is
15 amended by adding at the end thereof the following new
16 section:

17 “TIME FOR DELIVERY OF BENEFIT CHECKS WHEN REGULAR
18 DELIVERY DAY FALLS ON A SATURDAY, SUNDAY, OR
19 LEGAL HOLIDAY

20 “SEC. 708. (a) If the day regularly designated for the
21 delivery of benefit checks under title II or title XVI falls on a
22 Saturday, Sunday, or legal public holiday (as defined in
23 section 6103 of title 5, United States Code) in any month,
24 the benefit checks which would otherwise be delivered on
25 such day shall be mailed in time for delivery, and delivered,

1 on the first day preceding such day which is not a Saturday,
2 Sunday, or legal public holiday (as so defined), without re-
3 gard to whether the delivery of such checks would as a re-
4 sult have to be made before the end of the month for which
5 such checks are issued.

6 “(b) If more than the correct amount of payment under
7 title II or XVI is made to any individual as a result of the
8 receipt of a benefit check pursuant to subsection (a) before
9 the end of the month for which such check is issued, no action
10 shall be taken (under section 204 or 1631 (b) or otherwise)
11 to recover such payment or the incorrect portion thereof.”.

12 (b) The amendment made by subsection (a) of this
13 section shall apply with respect to benefit checks the
14 regularly designated day for delivery of which occurs on or
15 after the thirtieth day after the date of the enactment of this
16 Act.

17 **DEFINITION**

18 **SEC. 703.** As used in this Act and the amendments to
19 the Social Security Act made by this Act, the term “Sec-
20 retary” means, unless the context otherwise requires, the
21 Secretary of Health, Education, and Welfare.

95TH CONGRESS
1ST SESSION

H. R. 9346

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of non-profit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

By Mr. ULLMAN

SEPTEMBER 27, 1977

Referred to the Committee on Ways and Means

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Short-Term Financing of the
Social Security Trust Funds—
Subcommittee Draft Legislation



SEPTEMBER 28, 1977

NOTE.—This document has been printed for information purposes only.
It has not been considered or approved by the committee

U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1977

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
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(II)

SHORT-TERM FINANCING OF THE SOCIAL SECURITY TRUST FUNDS

The social security system is the Nation's primary means of providing economic security to workers and their dependents or survivors in the event of retirement, death, or disability. There are presently over 33 million people receiving monthly social security benefits and about 107 million workers who will contribute to the system this year.

The social security system is financed on a current-cost basis. That is, current taxes paid by workers and their employers are paid out to current beneficiaries. The trust funds form contingency reserves to be used in the event that, due to some unanticipated situation, outgo exceeds income in a given year or years.

PAYROLL TAX

The payroll tax is paid by employees, employers, and the self-employed. Funds are allocated as specified by law into the following trust funds to support the respective programs:

- (1) The old-age and survivors insurance trust fund (OASI);
- (2) The disability insurance trust fund (DI); and
- (3) The hospital insurance trust fund (HI), part A of medicare.¹

The following is a schedule of present law OASDHI payroll tax rates:

TABLE 1.—*Present law tax rates*

[In percent]					
Calendar year	OASI	DI ¹	OASDI	HI	OASDHI
EMPLOYERS AND EMPLOYEES, EACH					
1977	4.375	0.575	4.95	0.90	5.85
1978	4.350	.600	4.95	1.10	6.05
1979	4.350	.600	4.95	1.10	6.05
1980	4.350	.600	4.95	1.10	6.05
1981	4.300	.650	4.95	1.35	6.30
1982	4.300	.650	4.95	1.35	6.30
SELF-EMPLOYED					
1977	6.185	.815	7.0	.90	7.90
1978	6.150	.850	7.0	1.10	8.10
1979	6.150	.850	7.0	1.10	8.10
1980	6.150	.850	7.0	1.10	8.10
1981	6.080	.920	7.0	1.35	8.35
1982	6.080	.920	7.0	1.35	8.35

¹ There is no separate tax for disability insurance but the amounts indicated are allocated from the OASDI tax under the law.

¹ Part B of medicare is financed by premium payments and payments from the General Treasury.

TAXABLE WAGE BASE

The payroll tax is applied to earnings up to a certain amount established by law. In 1977 the taxable wage base is \$16,500. Legislation enacted in 1972, which provided for automatic cost-of-living increases, also provided for automatic increases in the wage base. (It was thought that the cost of the benefit increases could be financed from the additional income which would result from rising wage levels including automatic increases in the contribution and benefit base.) These automatic increases occur in the year after an automatic cost-of-living increase is effective, and the actual dollar increase is based on the increase in wages as reported to the Social Security Administration. A schedule of present and estimated future wage base levels follows:

TABLE 2.—*Contribution and benefit base*

Calendar year:	
1977	\$16,500
1978	17,700
1979	18,900
1980	20,400
1981	21,900

SHORT-TERM FINANCING

Appropriate trust fund size

The social security program has generally been considered adequately financed in the short term if (1) annual income is approximately equal to or slightly in excess of annual outgo and (2) the trust funds are large enough to weather moderate to severe recessions without increasing social security contributions until economic recovery is underway. There is a wide range of views on the appropriate near term trust fund level, ranging from very low (20 to 30 percent of annual outgo) to very large (over 100 percent).

The 1971 Advisory Council on Social Security recommended that the trust funds maintain a reserve ratio equal to 100 percent of annual outgo and that the trustees notify the Congress if the reserves were expected to go over 125 percent or under 75 percent. This recommendation was supported in principle by both the executive and legislative branches at the time it was put forward. Under the 1972 legislation (Public Law 92-603), the trust funds were expected to remain at about 80 percent of annual expenditures for a number of years and to gradually build to 100 percent. According to the estimates made at the time of the last major social security legislation in 1973, it was expected that there would be annual excesses of income over outgo over the short range, but the OASDI funds were projected to decline from about 72 percent of expenditures at the end of 1973 to about 62 percent at the end of 1977. At the time of the 1973 legislation, the recession was just getting underway and as a result of it, and much higher than expected cost-of-living increases, reserves have since fallen to less than 50 percent.

The Ford administration financing proposals in 1975 and 1976 were designed to prevent the reserve ratio from falling below one-third of annual outgo during the next 5 years in order to (1) prevent erosion of public confidence, (2) provide some degree of protection against adverse economic conditions, and (3) provide time to take further steps to deal with longer range financing needs.

The Carter administration has recommended a reserve ratio of about 35 percent as a short-term goal (1982) if countercyclical general revenues are provided to protect the trust funds against the loss of income due to unemployment in excess of 6 percent. Without the general revenue proposal, the Carter administration believes the reserve ratio should be equal to 50 percent of annual outgo in order to meet the needs of the system during a recession as severe as the recent one.

Mr. Ullman has proposed and the Subcommittee draft incorporates a stand-by loan guarantee which will prevent each trust fund from falling below 25% of the expenditures in the preceding year.

Short-term deficit

Under the provisions of present law and the economic and demographic assumptions used by the Board of Trustees, the annual excess of outgo over income that began in 1975 is expected to continue and to grow each year into the future.

The short term is generally defined as the next 5 to 10 years, the medium range as the next 25 years (through 2001), and the long term as the next 75 years (through 2051). Although the near term deficits are quite small when compared to the deficits over longer periods, the current and projected deficit over the next 5 to 10 years is the most critical problem facing the program today.

In 1970, the OASDI trust funds combined had a balance of about 1 year's outgo. At the beginning of 1977 the balance had been reduced to 47 percent of a year's outgo. This trend will continue, and the combined funds will be exhausted in 1982 unless action is taken to correct this situation. The disability trust fund will be depleted in 1979 or even late 1978.

The operations of the trust funds are extremely sensitive to changes in economic conditions. Outgo is higher than was estimated in the past because the rate of inflation during the last few years has been higher than had been expected, and under the automatic benefit increase provisions in the law, benefits have been increased more than was expected. Although income has also been higher than was expected, it has not been enough to offset the increase in outgo due to the rapid rise in benefits. In addition, the high rate of unemployment in recent years has resulted in fewer people contributing to the system than was previously expected while the number of beneficiaries is higher than estimated. Finally, the experience in the disability program has been extremely adverse.

TABLE 3.—*Estimated operations of the OASI, DI, combined OASDI, and HI trust funds during calendar years 1976-81, based on the intermediate economic assumptions of the 1977 Report of the Board of Trustees*

(Dollar amounts in billions)

Calendar year	Income	Disbursements	Net increase in fund	Fund at end of year	Fund at beginning of year as a percentage of disbursements during year
OASI					
1976 ¹ -----	\$66.3	\$67.9	-\$1.6	\$35.4	54
1977-----	72.5	75.6	-3.1	32.3	47
1978-----	79.8	84.0	-4.2	28.1	38
1979-----	87.7	92.0	-4.3	23.8	31
1980-----	96.1	100.6	-4.4	19.4	24
1981-----	102.8	109.4	-6.7	12.7	18
DI					
1976 ¹ -----	8.8	10.4	-1.6	5.7	71
1977-----	9.6	12.0	-2.4	3.3	48
1978-----	10.9	13.6	-2.8	.5	24
1979 ² -----	11.8	15.3	-3.5	-3.0	3
1980 ² -----	12.8	17.4	-4.6	-7.6	(³)
1981 ² -----	14.6	19.5	-4.9	-12.5	(³)
OASDI					
1976 ¹ -----	75.0	78.2	-3.2	41.1	57
1977-----	82.1	87.6	-5.5	35.6	47
1978-----	90.7	97.6	-7.0	28.6	36
1979 ² -----	99.6	107.4	-7.8	20.8	27
1980 ² -----	108.9	117.9	-9.0	11.8	18
1981 ² -----	117.4	128.9	-11.5	.3	9
HI					
1976 ¹ -----	13.8	13.7	.1	10.6	77
1977-----	16.1	16.2	-.1	10.5	66
1978-----	20.9	19.0	1.9	12.4	55
1979-----	23.4	22.2	1.2	13.6	56
1980-----	25.6	25.7	-.1	13.5	53
1981-----	33.2	29.7	3.6	17.0	45

¹ Figures for 1976 represent actual experience.

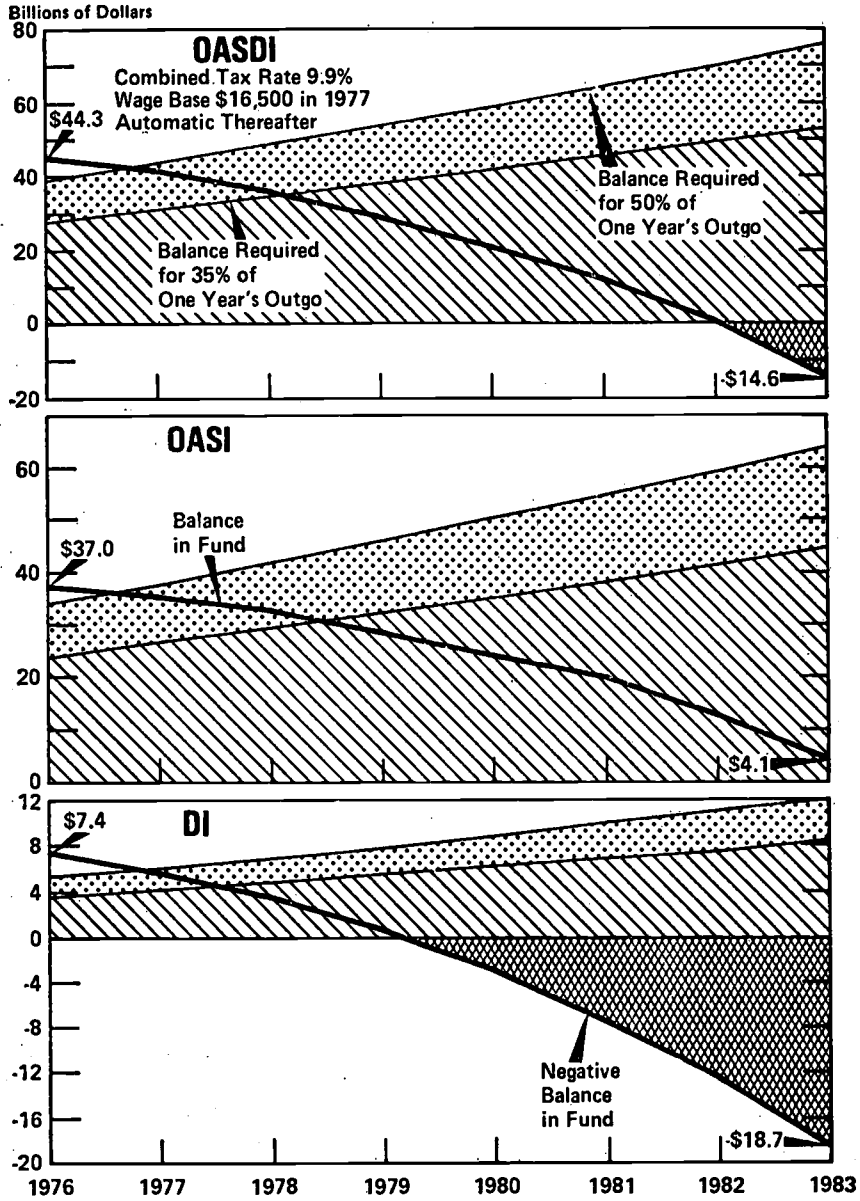
² Figures for 1979-81 are theoretical because it is estimated that the disability insurance trust fund will be exhausted in 1979.

³ Fund exhausted in 1979.

NOTE.—Totals do not necessarily equal the sum of rounded components. Estimates reflect minor adjustments that were made to the 1977 Trustees Report in recognition of actual experience.

It is clearly evident that additional revenue is needed to deal with the short-term deficits of the trust funds. The condition of the disability insurance trust fund is so serious that social security actuaries have indicated that due to the way taxes are collected, a cash-flow problem may develop late in 1978 and there may not be sufficient funds to pay disability benefits when they are due.

Prospects Under Present Law, Based on 1977 Trustees Report Assumptions



Social Security Administration
 Office of the Actuary
 August 19, 1977

SUBCOMMITTEE DRAFT BILL

Additional revenue

The draft would increase the contribution and benefit base (the maximum amount of a worker's annual earnings that is subject to social security taxes and creditable for benefits), revise the schedule of tax rates in the law, and reallocate a portion of scheduled increases in the hospital insurance (HI) tax rate to the cash benefits (OASDI) program. In addition, the bill would achieve additional short-term revenue by extending coverage to public and nonprofit employees and would provide for standby authority for loans to the trust funds from Federal general revenues in the event that trust fund levels fall below specified minimum levels.

1. Increase in contribution and benefit base

The draft provides for increasing the contribution and benefit base—in three steps—to a level where about 90 percent of all payroll in covered employment would be taxable for social security purposes. Accordingly, the draft bill would increase the base to \$20,900 in 1979, \$24,400 in 1980, and \$27,900 in 1981, with automatic adjustments to keep up with average wage levels thereafter (as under present law).

2. Changes in OASDHI tax rates

The draft includes provisions for allocating a portion of future income from HI tax-rate increases already scheduled in the law to the OASDI program as a way of meeting part of currently projected short-falls in OASDI income. Of the 0.20 percent HI tax-rate increase scheduled in present law for 1978, 0.15 percent would be shifted to OASDI and 0.05 percent of the 0.25 percent increase for 1981 would be similarly shifted.

Tax rates for the OASDI program for employers and employees, each, would be increased (beyond the increases resulting from reallocation of scheduled HI tax-rate increases, which do not result in any net OASDHI tax rate increase over present law) by 0.1 percent, 0.3 percent, and 0.6 percent in 1981, 1985, and 1990, respectively.

3. Changes in self-employed tax rates for OASDI

The draft restores the self-employed rate to its original level of 1½ times the employee rate. (Since 1972, the social security cash benefits contribution rate for the self-employed has been below the level of one and one-half times the employee rate that was originally provided when the self-employed were first covered under the social security program in 1951.)

4. Change in allocation to the disability insurance trust fund

The draft bill would revise the allocation of tax income to the disability insurance trust fund to assure the financial soundness of the disability insurance program. In the early years an increase of 0.35 percent of taxable payroll would be allocated to the disability program.

5. Standby authority for loans to the trust funds from general revenues

The draft has included a provision granting standby authority for automatic loans to the social security trust funds from Federal general revenues whenever the assets of a trust fund drop below a 25 percent level in relation to annual outgo at the end of year.

6. *Universal coverage*

The draft bill provides mandatory coverage to the major groups of workers who are optionally covered under present law, that is, Federal workers, State and local employees, and employees of nonprofit organizations. This coverage, which would be effective in 1980, would add substantial additional income to the system in 1980 and thereafter.

During its final consideration of the draft bill the Subcommittee discussed the possibility of additional financing if the universal coverage provision was not adopted. The Actuaries pointed out that a .2 percent tax increase of both employee and employer in 1981 would be needed to make up for the loss of revenue if the coverage provision was dropped. Also at this time there was discussion about the importance of having financing for the bill which did not cause the trust funds to fall below 25 percent of annual expenditures which would trigger an advance under the standby loan authority. To do this would require an additional \$7.3 billion in income or benefit changes by the end of 1980 in addition to the .2 percent of payroll increase in 1981.

7. *Increased revenues*

The total additional revenue generated by provisions in the draft bill which increase the tax rate and wage base, reallocate revenue from the HI Trust Fund and extend mandatory universal coverage for the years 1978-83 is \$112.8 billion. Of this amount, \$50.2 billion results from universal coverage.

Benefit payments—costs and savings

There are both short term costs and savings in the subcommittee draft, as shown in table 4. The liberalization of the retirement test and the elimination of marriage or remarriage as a bar to benefits have substantial cost effects. On the other hand, the elimination of retroactive payments of actuarially reduced benefits, the elimination of the monthly measure of the retirement test, and decoupling with the 3 percent delayed retirement credit result in substantial savings. As shown in Table 4 there will be total additional benefits payable in the amount of \$12.6 billion for the period 1978-83.

A fuller explanation of the provisions of bill is contained in appendix A.

TABLE 4.—*Effects of Social Security Subcommittee draft bill on OASI and DI trust funds*

[In millions]

	Effective date (January)	1978	1979	1980	1981	1982	1983
BENEFITS							
Decoupling, with 3 percent delayed retirement credits-----	1979 -----		\$70	\$351	\$803	\$1,473	\$2,377
Elimination of marriage or remarriage as a bar to entitlement to benefits-----	1979 -----	-1,135	-1,355	-1,454	-1,551	-1,654	
Reduction in duration of marriage required for divorced spouses benefits from 20 yr to 5 yr-----	1979 -----	-137	-164	-177	-190	-204	
Changes in retirement test—total-----	1978 -----	-\$569	-1,765	-2,162	-2,250	-2,340	-2,430
Increase annual exempt amount to \$4,500 in 1978 and to \$6,000 in 1979-----		-782	-1,990	-2,388	-2,486	-2,584	-2,682
Eliminate the monthly measure-----		213	225	226	236	244	252
Eliminate retroactive payments of actuarially reduced benefits-----	1978 -----	339	536	550	559	565	569

00

Increase special minimum benefit from \$9 per year of coverage to \$11.50, and apply automatic increases in the future.....	1979	-----	-12	-14	-14	-15	-16
Changes in annual wage reporting provisions.....	1978	(¹)	-1	-4	-9	-18	-26
Eliminate gender-based distinctions from the law.....	1978	-4	-5	-6	-7	-8	-8
Subtotal, excluding universal coverage.....		-234	-2,449	-2,804	-2,549	-2,084	-1,392
Universal coverage of Federal civilian employees, employees of State and local governments, and employees of nonprofit organizations.....	1980	-----		(¹)	-83	-316	-657
Total additional benefit payments.....		-234	-2,449	-2,804	-2,632	-2,400	-2,049
REVENUES							
Additional amount of OASDI income over and above income under present law—total.....		2,520	5,486	18,798	28,587	33,541	37,857
Additional interest income.....		73	210	845	2,275	4,117	6,421
Amount resulting from financing changes.....	1978	2,447	5,276	8,096	13,931	15,951	16,932
Amount resulting from universal coverage.....	1980	-----	-----	9,857	12,381	13,473	14,504
Net effect of draft bill.....		2,286	3,037	15,994	25,955	31,141	35,808

¹ Less than \$500,000.

TABLE 5.—*Estimated operations of the OASI and DI trust funds, combined, under the Social Security Subcommittee's draft bill of Sept. 26, 1977, calendar years 1977-87*

[In billions]

Calendar year	Income		Outgo	Net increase in funds
	Total	Transfers from general fund under the "loan" provision—included in total income ¹		
1977	\$82.1		\$87.6	-\$5.5
1978	93.2		97.9	-4.7
1979	105.0		109.8	-4.8
1980	134.0	\$6.3	120.7	13.3
1981	146.0		131.5	14.5
1982	158.8		142.5	16.3
1983	164.5	-6.3	154.1	10.3
1984	183.2		166.9	16.3
1985	206.2		180.6	25.6
1986	222.4		195.1	27.3
1987	238.4		210.5	27.9

Calendar year	Assets as a percentage of outgo—		
	Assets at end of year	At beginning of year	At end of year
1977	\$35.6	47	41
1978	30.9	36	32
1979	26.2	28	24
1980	39.4	22	33
1981	53.9	30	41
1982	70.1	38	49
1983	80.4	45	52
1984	96.7	48	58
1985	122.3	54	68
1986	149.6	63	77
1987	177.6	71	84

¹ The negative figure shown for 1983 represents repayment of the loan received from the general fund in 1980.

NOTE.—The above estimates are based on the intermediate set of assumptions shown in the 1977 Trustees Report.

TABLE 6.—*Estimated operations of the HI trust fund under the program as modified by the Social Security Subcommittee's draft bill of Sept. 26, 1977, calendar years 1977-87*

[In billions]

Calendar year	Income		Outgo	Net increase in fund
	Total	Transfers from general fund under the "loan" provision— included in total income		
1977	\$16.1		\$16.2	-\$0.1
1978	18.3		19.0	-.7
1979	20.7		22.2	-1.5
1980	24.7		25.7	-1.0
1981	32.3		29.7	2.7
1982	35.3		33.9	1.4
1983	37.6		38.6	-.9
1984	39.9		43.7	-3.8
1985	48.6	\$6.5	49.3	-.6
1986	58.6	8.9	55.2	3.4
1987	60.2	7.3	61.7	-1.5

Calendar year	Assets as a percentage of outgo—		
	Assets at end of year	At beginning of year	At end of year
1977	\$10.5	66	65
1978	9.8	55	52
1979	8.3	44	37
1980	7.2	32	28
1981	9.9	24	33
1982	11.3	29	33
1983	10.4	29	27
1984	6.6	24	15
1985	5.9	13	12
1986	9.3	11	17
1987	7.8	15	13

NOTE.—The above estimates are based on the intermediate set of assumptions shown in the 1977 Trustees Report. 2. The estimates do not reflect the effects of any cost-containment provisions which may be enacted

TABLE 7.—*Estimated operations of the HI trust fund under the program as modified by the Social Security Subcommittee's draft bill of Sept. 26, 1977, but without the extension of coverage to Federal civilian employees and to all employees of State and local governments and nonprofit organizations, calendar year 1977-87*

[In billions]

Calendar year	Income		Outgo	Net increase in fund
	Total	Transfers from general fund under the "loan" provision— included in total income		
1977	\$16.1		\$16.1	—\$0.1
1978	18.3		19.0	— .7
1979	20.7		22.2	—1.5
1980	22.8		25.7	—2.9
1981	31.8	\$2.4	29.7	2.2
1982	31.9		33.9	—2.0
1983	38.4	4.7	38.5	— .1
1984	41.7	6.1	43.7	—2.0
1985	46.8	9.6	49.1	—2.4
1986	57.3	13.6	54.9	2.4
1987	59.1	13.0	61.2	—2.1

Calendar year	Assets as a percentage of outgo—		
	Assets at end of year	At beginning of year	At end of year
1977	\$10.5	66	65
1978	9.8	55	52
1979	8.3	44	37
1980	5.3	32	21
1981	7.5	18	25
1982	5.5	22	16
1983	5.4	14	14
1984	3.5	12	8
1985	1.1	7	2
1986	3.5	2	8
1987	1.4	6	2

NOTE.—(1) The above estimates are based on the intermediate set of assumptions shown in the 1977 Trustees Report. (2) The estimates do not reflect the effects of any cost-containment provisions which may be enacted.

TABLE 8.—Estimated operations of the OASI and DI trust funds, combined, under the Social Security Subcommittee's draft bill of Sept. 26, 1977, but without the extension of coverage to Federal civilian employees and to all employees of State and local governments and nonprofit organizations and with tax rates increased by 0.2 percent for employees and employers, each in 1981 and later, calendar years 1977-87

[In billions]

Calendar year	Income		Outgo	Net increase in fund
	Total	Transfers from general fund under the "loan" provision— included in total income ¹		
1977	\$82.1		\$87.6	—\$5.5
1978	93.2		97.9	—4.7
1979	105.0		109.8	—4.8
1980	123.8	\$6.3	120.7	3.0
1981	144.0	6.8	131.5	12.5
1982	149.1		142.2	6.9
1983	159.7		153.4	6.3
1984	170.7		165.7	5.0
1985	191.3		178.9	12.4
1986	205.6		192.8	12.7
1987	206.5	—13.1	207.6	—1.1

Calendar year	Assets as a percentage of outgo—		
	Assets at end of year	At beginning of year	At end of year
1977	\$35.6	47	41
1978	30.9	36	32
1979	26.2	28	24
1980	29.2	22	24
1981	41.7	22	32
1982	48.7	29	34
1983	55.0	32	36
1984	60.0	33	36
1985	72.4	34	40
1986	58.2	38	44
1987	84.0	41	40

¹ The negative figure shown for 1987 represents repayment of the loan received from the general fund in 1980.
NOTE.—The estimates are based on the intermediate set of assumptions shown in the 1977 Trustees Report.

APPENDIX

TITLE BY TITLE SUMMARY—COMMITTEE PRINT, SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

TITLE I—SHORT-TERM FINANCING

The Print includes a schedule of social security tax rate increases over present law in 1981, 1985 and 1990 to provide additional financing for the system. There also would be reallocations of income from the Hospital Insurance (HI) Fund to the Old Age and Survivors (OASI) and Disability Insurance (DI) Funds. As you are aware the Disability Fund could run out as early as 1978 and Old Age and Survivors in 1982. The proposed tax rate schedule is as follows:

Tax rates

[In percent]

Calendar year	Present law			Proposal		
	OASDI	HI	Total	OASDI	HI	Total
Employees and employers, each:						
1977-----	4.95	0.90	5.85	4.95	0.90	5.85
1978-80-----	4.95	1.10	6.05	5.10	.95	6.05
1981-84-----	4.95	1.35	6.30	5.25	1.15	6.40
1985-----	4.95	1.35	6.30	5.55	1.15	6.70
1986-89-----	4.95	1.50	6.45	5.55	1.30	6.85
1990-2010-----	4.95	1.50	6.45	6.15	1.30	7.45
2011 and later-----	5.95	1.50	7.45	6.15	1.30	7.45
Self-employed persons:						
1977-----	7.00	.90	7.90	7.00	.90	7.90
1978-80-----	7.00	1.10	8.10	7.15	.95	8.10
1981-84-----	7.00	1.35	8.35	7.85	1.15	9.00
1985-----	7.00	1.35	8.35	8.35	1.15	9.50
1986-89-----	7.00	1.50	8.50	8.35	1.30	9.65
1990-2010-----	7.00	1.50	8.50	9.20	1.30	10.50
2011 and later-----	7.00	1.50	8.50	9.20	1.30	10.50

There would be ad hoc increases in the taxable wage base in 1979, 1980 and 1981 to achieve a base level in 1981 under which about 90% of all earnings would be subject to tax. After 1981 the base would be increased annually in line with wage levels as is the case under present law. Following is the proposed taxable wage base schedule for employers and employees:

	Present law	Proposal
1977-----	\$16,500	\$16,500
1978-----	17,700	17,700
1979-----	¹ 18,900	20,900
1980-----	¹ 20,400	24,400
1981-----	¹ 21,900	27,900
1982-----	¹ 23,400	¹ 30,000
1983-----	¹ 24,900	¹ 31,800
1984-----	¹ 26,400	¹ 33,600
1985-----	¹ 27,900	¹ 35,400
1986-----	¹ 29,400	¹ 37,500
1987-----	¹ 31,200	¹ 39,600

¹ Estimated.

The draft provides standby authority for automatic loans to the social security trust funds from federal general revenues whenever the assets of a trust fund at the end of a year drop below a 25 percent level in relation to annual outgo for that year. Under the draft bill this would be triggered at the end of 1979. The Subcommittee was exploring alternative ways to prevent this at the time of referral of the tentative decisions to the full Committee. Any loans would be repaid automatically when assets in a fund at the end of a year reached 40 percent of the year's outgo from that fund.

TITLE II—LONG RANGE FINANCING—DECOUPLING

To correct unintended effects in the benefit computation procedures which produce benefits for future beneficiaries that could vary haphazardly with wage and price fluctuations, the measure would "decouple" the system. The new decoupled system would index a worker's earnings to reflect annual increases in average earnings levels up to the second year before eligibility (age 62, death, or disability). This has the effect of assuring that similarly situated beneficiaries generation to generation will receive relatively the same level of benefits. The benefit level adopted for the long-term is 5 per cent below estimated 1979 benefit levels. Included in the draft legislation is a 10-year guarantee of 1979 levels to provide a gradual transition to the new system for workers who retire 1979 through 1988. The transition provision will not be applicable to disability and survivor cases. As under present law, benefits would continue to be increased according to the increases in the cost-of-living after a person reaches age 62 or becomes disabled or, in the case of survivor's benefits, after the time of the worker's death. The "decoupling" provisions would eliminate over one-half of the long-range deficit in the social security system.

The following benefit computation procedures are contained in the Subcommittee draft:

Family Maximum.—The draft contains provision which would continue the same general relationship of the primary benefit to the family maximum which exists under existing law, namely a family maximum which ranges from 150 per cent to 188 per cent of the primary benefit.

Minimum.—The draft legislation would freeze the present minimum benefit for future beneficiaries at its 1979 dollar amount (about \$120.60 for an individual). The benefit would be adjusted for annual cost-of-living increases only after the individual starts receiving it.

Special Minimum.—This benefit provided for long-term, low-paid workers would be increased. Under present law this benefit is equal to \$9 times the number of years of coverage a worker has in excess of 10 and up to 30; this benefit is not subject to annual cost-of-living increases and has been almost totally phased out of operation. The draft would increase the \$9 figure to \$11.50, and provides that the special minimum would be kept up-to-date with future increases in the cost-of-living for both present and future beneficiaries.

Delayed Retirement Credit.—The Subcommittee draft increased the delayed retirement credit provision in the law so that persons who delay receiving retirement benefits between ages 65 and 72 would have their payments increased by 3 per cent for each year they do not take benefits as compared with 1 per cent under the present law.

TITLE III—COVERAGE

The draft legislation would extend mandatory coverage, effective in 1980, to the three major groups not under social security. These are federal employees, about 30 per cent of state and local government employees (about 70 per cent now are under social security on a voluntary basis), and about 10 per cent of the employees of nonprofit organizations (about 90 per cent of these employees are in the system on a voluntary basis). This provision would bring more than six million additional workers into the system. These provisions generate substantial revenue to the system beginning in 1980. They have also generated a considerable amount of controversy arising out of the concern of the workers affected that their existing protection rights will be jeopardized by this legislation.

The measure would discontinue the present option of state and local government units and groups of nonprofit organization employees to withdraw from the system.

Also, the measure requires some employer responsibility for the tax on tip income. Under social security tip income (if over \$20 a month) is taxed on the employee alone. Under the draft legislation, the employer will be taxed on tip income up to the amount that combined with the employee's salary equals the regular minimum wage under the Fair Labor Standards Act.

Finally, the bill would exclude from coverage as self-employment income certain limited partnership income which is more in the nature of investment income than compensation for actual services performed.

TITLE IV—GENDER BASED DISTINCTIONS

Part A.—The Subcommittee included in its draft legislation a series of provisions to make relatively minor changes in the social security law to eliminate differences for men and women. Some of these would write into the Act provisions which carry out Supreme Court decisions already being followed by regulations. These provisions are:

(a) *Father's benefits.*—Benefits would be provided for young husbands and fathers who have in their care a child who is under age 18, or disabled, and who is entitled to benefits.

(b) *Benefits for divorced men.*—Benefits would be provided for aged divorced husbands and aged or disabled divorced widowers.

(c) *Remarriage of widowers before age 60.*—A widower would be permitted to obtain benefits on a deceased wife's earnings record if he is not married at the time he applies for widower's benefits, as widows now can, instead of if he has not remarried, as present law provides.

(d) *Transitional insured status benefits.*—Husband's and widower's benefits would be provided under the transitionally insured status amendment of 1965.

(e) *Special age-72 payment amounts for certain uninsured individuals.*—When both members of a couple are receiving special age-72 payments, the amount of the payments would be divided equally between the two, instead of giving the husband a full benefit and the wife one-half the husband's benefit.

(f) *Benefits of spouses of childhood disability or disabled worker beneficiaries.*—Would terminate the benefits of the spouse of a female disabled worker beneficiary or childhood disability beneficiary if she ceases to be disabled, as is now the case if the disabled worker or childhood disability beneficiary is a male.

(g) *Benefit rights of illegitimate children.*—An illegitimate child's status for purposes of entitlement to child's insurance benefits would be determined with respect to the child's mother in the same way as it is now determined with respect to the child's father.

(h) *Waiver of civil service survivor's annuities.*—A widower, as well as a widow, would be permitted to waive payment of a Federal benefit attributable to credit for military service performed before 1967 in order to have the military service credited toward eligibility for or the amount of a social security benefit.

(i) *Crediting of a self-employment income in community property States.*—The self-employment income of a married couple in a community property State would be credited for social security purposes to the spouse who exercises more management and control over the trade or business, instead of being deemed the husband's unless the wife exercises substantially all of the management and control of the business, as present law provides.

Part B.—The Subcommittee draft includes two provisions to improve benefits for spouses. One would shorten the duration of marriage requirement for aged divorced spouse's benefits from 20 years to five. The other would provide that remarriage would not cause any reduction in the benefits paid to aged widows or widowers and that marriage would not terminate benefits for certain other beneficiaries.

Part C.—The measure also would direct the Secretary of Health, Education, and Welfare to conduct a study of changes in the social security program needed to guarantee that women, as well as men, are treated equitably. The study is to be completed within six months of enactment.

TITLE V—CHANGES IN EARNINGS LIMITATION (RETIREMENT) TEST

The draft legislation would raise to \$4,500 in 1968 and to \$5,000 in 1979 the annual amount of earnings a beneficiary may have without having any benefits withheld. The retirement test figure is \$3,000 this year and, under automatic adjustment provisions in present law, is to rise to \$3,240 in 1978.

The draft legislation would also eliminate the monthly measure of retirement after the year of retirement—the provision in present law under which full social security benefits are paid for any month in which a person earns one-twelfth of the annual retirement test amount or less, regardless of total earnings for the year.

TITLE VI—ANNUAL WAGE REPORTING

Public Law 94-202, enacted January 2, 1976, provided that employers would report their employees' wages for social security and income tax purposes annually on Forms W-2 beginning with wages paid in 1978. Employers are also required to report quarterly wage data on the Forms W-2 to enable the Social Security Administration to determine whether a worker has enough quarters of coverage to be eligible for social security benefits. The draft legislation would change the quarters-of-coverage measure and certain automatic provisions of the social security law so that annual data would be used, instead of quarterly data. Under the draft legislation, employers would no longer have to report quarterly data on the Forms W-2, and they and the Government would realize the maximum advantages that annual reporting was designed to achieve. These changes were recommended by the Administration to avoid serious problems that could arise under present law.

The most significant program change would be a provision setting out how annual wages would be credited in terms of quarters of coverage. Under present law, a worker generally receives credit for a quarter of coverage for a calendar quarter in which he received at least \$50 in wages. Under the draft legislation, a worker would receive one quarter of coverage (up to a total of four) for each \$250 of earnings in a year, and the \$250 measure would be automatically increased every year to take account of increases in average wages.

TITLE VII—MISCELLANEOUS PROVISIONS

Limitation on Retroactive Benefits.—Under present law, a person who files an application after he is first eligible can get benefits, including actuarially reduced benefits, for a retroactive period up to 12 months before the month in which the application is filed, if all conditions of entitlement are met for those months. Under the draft legislation, except in those cases where the benefits were disability-related or where unreduced dependents benefits were involved, monthly cash benefits would not be paid retroactively for months before the month in which the application was filed when such retroactivity would result in permanently reduced benefits.

Early Payment of Benefit Checks in Certain Situations.—Under present law, social security benefit payments for a particular month are payable after the end of that month, and payment is normally made on the third day of the month; SSI benefit checks for a particular month are delivered on the first day of that month. Under the draft legislation, when the delivery date falls on a Saturday, Sunday, or legal public holiday, social security and SSI checks would be received on an earlier date.

S. 690

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10 (legislative day, FEBRUARY 1), 1977

Mr. HASKELL (for himself and Mr. GARY HART) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

For the relief of the Jefferson County Mental Health Center,
Incorporated, and one hundred and three individuals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the waiver certificate filed by the Jefferson County
4 Mental Health Center, Incorporated (taxpayer identification
5 number 84-047417), under section 3121(k)(1)(A) of
6 the Internal Revenue Code of 1954 (relating to waiver of
7 exemption by organization) shall be deemed not to have
8 been filed with respect to the one hundred and three individ-
9 uals named in section 6 of this Act with respect to the
10 period from January 1, 1972, through the last day of the

1 calendar quarter in which the date of enactment of this
2 Act occurs.

3 SEC. 2. The Secretary of the Treasury or his delegate,
4 upon proof reasonably satisfactory to him that repayment
5 has been made to the one hundred and three individuals
6 named in section 6 of this Act by the Jefferson County Men-
7 tal Health Center, Incorporated, of sums representing the
8 amount of taxes imposed on such individuals under section
9 3101 of the Internal Revenue Code of 1954 (relating to
10 rate of tax) and deducted and paid by the Jefferson County
11 Mental Health Center, Incorporated, under section 3102
12 of such Code (relating to deduction of tax from wages)
13 during the period specified in the first section of this Act,
14 shall consider such sums paid to such employees as over-
15 payments of tax under section 6413 (b) of such Code (re-
16 lating to overpayment of certain employment taxes) and
17 shall approve a claim for a refund, credit, or adjustment filed
18 prior to or within ninety days of the date of enactment of
19 this Act by the Jefferson County Mental Health Center,
20 Incorporated, under sections 6402 of such Code (relating
21 to authority to make credits or refunds) or 6611 (a) or
22 (b) (2) of such Code (relating to interest on overpay-
23 ments).

24 SEC. 3. (a) Any period of limitations for filing a claim
25 for credit or refund under section 6511 of the Internal Reve-

1 nue Code of 1954 (relating to limitations on credit or re-
2 fund) shall be waived with respect to any claim for refund,
3 credit, or adjustment made by the Jefferson County Mental
4 Health Center, Incorporated, under section 2 of this Act.

5 (b) Section 6514 of such Code (relating to credits or
6 refunds after a period of limitation) shall not apply to any
7 such claim.

8 SEC. 4. (a) (1) A certificate of waiver filed by the
9 Jefferson County Mental Health Center, Incorporated, un-
10 der section 3121 (k) (1) (A) of the Internal Revenue Code
11 of 1954 shall apply to the one hundred and three individuals
12 named under section 6 of this Act and the Jefferson County
13 Mental Health Center, Incorporated, after the last day of
14 the quarter in which this Act is enacted.

15 (2) Notwithstanding the provisions of section 3121
16 (k) (1) (B) (iii) of such Code, the Jefferson County Mental
17 Health Center, Incorporated, may not elect to have such
18 certificate of waiver apply to any of the one hundred and
19 three individuals named in section 6 of this Act for the
20 period specified in the first section of this Act.

21 (b) The certificate of waiver filed by the Jefferson
22 County Mental Health Center, Incorporated, under section
23 3121 (k) (1) (A) of such Code, or any prior corresponding
24 provision of law, shall be inapplicable, under the provisions
25 of this Act, only with respect to the one hundred and three

1 individuals named in section 6 of this Act and only for the
2 period specified in the first section of this Act.

3 SEC. 5. (a) The period for which any of the one hun-
4 dred and three individuals named in section 6 of this Act
5 received a repayment of the tax imposed on such individuals
6 under section 3101 of the Internal Revenue Code of 1954
7 shall not be considered in any determination of eligibility
8 for benefits under the Social Security Act. This subsection
9 shall not apply to the determination of eligibility for benefits
10 under the Social Security Act for any individual named in
11 section 6 of this Act or the family of such an individual if
12 the individual died, became disabled, or reached the age of
13 sixty-two during such period.

14 (b) The provisions of this Act shall not be construed
15 to affect the consideration given to any period of employ-
16 ment prior to or after the period specified in the first section
17 of this Act in the determination of eligibility for benefits
18 under the Social Security Act.

19 SEC. 6. The one hundred and three individuals affected
20 by this Act are as follows:

Name	Social security number
Assafi, Ines.....	078-30-2687
Bucklew, Beverly.....	450-64-6725
Burr, Janet.....	082-28-4395
Casey, William.....	522-68-5084
Chapman, Stephen.....	513-42-7215
Dunham, Martha.....	524-72-3978
Gilchrist, Kay.....	510-36-4853
Hughes, Mary.....	521-30-4097

Name	Social security number
Hyatt, Aven.....	523-48-8548
Jones, Alice.....	326-16-3001
Satterfield, William.....	516-30-7060
Moore, Reid.....	503-46-5274
Moriarty, Patrick.....	476-34-1409
Rewey, Helen.....	515-38-4953
Rich, Nancy.....	513-46-1945
Unsell, Margaret.....	060-36-9623
Auten, Cyndi.....	523-60-8586
Blackmore, Merihelen.....	297-36-1640
Braden, Eric.....	285-38-0307
Cranston, Connie.....	503-40-6980
Dines, William.....	524-38-5886
Benz, Ann Charlotte.....	522-68-0880
Hrynkow, Ron.....	479-54-9131
Mansfield, Lorita.....	491-30-8890
Olson, Keith.....	521-46-9793
Persson, Berdell.....	523-14-0367
Porter, William.....	514-34-2662
Sheehan, Daniel.....	343-36-0979
Winters, Billy R.....	448-34-2877
Parker, Ginger Joy.....	431-92-4062
Kempton, Phyllis.....	479-18-8743
Gerali, Virginia.....	523-32-6565
Holmboe, Chris.....	552-01-5265
Hendrix, Carmella.....	522-62-2412
Ridge, Linda.....	514-50-5485
Tobias, Lester.....	050-36-7998
Dawson, Lynn.....	520-56-1017
Dea, Timothy.....	524-72-7626
Graham, Patricia.....	566-76-8106
Means, Zetta.....	515-48-6422
Nicoletti, John.....	523-60-2958
McClain, Rodella.....	523-56-4958
Psenicka, Lee.....	523-84-4267
Nally, Michael.....	234-56-2595
Martin, Sandra.....	521-78-3426
Olson, Roxeen.....	524-88-5833
Mitchell, Vickie.....	297-38-4067
Edwards, Lee.....	523-88-2707
Mansfield, Maura.....	523-98-1354
Martin, Sherry.....	522-88-4614
Gordon, Sharon.....	565-76-6096
Alder, Nancy.....	524-78-9023
Ferney, Nancy.....	522-58-3131
McLean, Anne.....	377-46-3105
Miller, E. Pat.....	475-52-2344
Ramirez, Cathy.....	524-46-6867
Clark, Josephine.....	461-52-4539
Grace, LaRose.....	306-44-6181
Donovan, Carey.....	007-52-2226

Name	Social security number
Pomerantz, Jay	212-54-5207
Shoemaker, James	504-60-8244
Neptune, Belmont	522-01-9411
Siefkin, Diane	521-92-2202
Cornish, Susan	464-82-0167
Evans, Chris	263-84-4766
Fleming, Glennys	522-44-0262
Harris, Virginia	476-46-9717
Koback, Patricia	367-50-6918
Briggs, Gayle	523-54-8924
Vollmer, Betsy	228-62-9384
Myrant, John	468-60-1822
Peterson, Stephanie	528-56-9995
Godfrey, Susan	511-48-8354
Thomas, Georgia	523-56-6820
Zaranka, Judy	144-40-2842
Camp, Gay-Leigh	573-66-5864
Igle, Diane	144-38-1164
Marshall, George	064-26-9963
Turner, Deanne	523-68-0535
Meiners, Cathy	281-48-9929
Murray, Bonnie	524-46-5667
Ferrigno, Bea	011-32-2299
Fisher, Nettie	321-44-7894
Allen, Dan	244-50-8196
Long, John	264-86-4601
Dunn, Diane	523-92-2291
Mathews, Joan	544-42-7659
Butts, Janet	523-38-0200
Cavaleri, Joann	524-30-6561
Seitz, Anita	321-09-0972
Germer, William	459-72-5763
Dotsch, Marcella	380-32-8618
Lee, Christie	521-84-9635
Wolf, Debra	523-90-6041
Nelson, Betty	224-54-3867
Warner, Richard	524-90-3363
Dudden, JoEtta	524-66-3874
Munn, Becky	522-90-0656
Litzenberger, Judy	524-76-1818
Rullman, Alene	510-48-0492
Liem, Charles	264-80-4372
Gibbens, Gary	521-60-1969
Singleton, Vickie	489-60-2592

95TH CONGRESS
1ST SESSION

S. 690

A BILL

For the relief of the Jefferson County Mental
Health Center, Incorporated, and one hun-
dred and three individuals.

By Mr. HASKELL and Mr. GARY HART

FEBRUARY 10 (legislative day, FEBRUARY 1), 1977
Read twice and referred to the Committee on Finance

95TH CONGRESS
1ST SESSION

H. R. 9595

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 1977

MR. CONABLE introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for a gradual increase in retirement age from sixty-five to sixty-eight, to improve the treatment of women (through the establishment of a working spouse's benefit and otherwise) and to eliminate gender-based discrimination, to provide coverage under the system for officers and employees of the United States, of State and local governments, and of nonprofit organizations, to increase and ultimately repeal the earnings limitation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

- 1 That this Act, with the following table of contents, may be
 2 cited as the "Social Security Financing Amendments of
 3 1977".

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1 TITLE I—PROVISIONS TO IMPROVE THE FI-
 2 NANCING OF THE OLD-AGE, SURVIVORS,
 3 AND DISABILITY INSURANCE PROGRAM

4 ADJUSTMENTS IN TAX RATES

- 5 SEC. 101 (a) (1) Section 3101 (a) of the Internal
 6 Revenue Code of 1954 (relating to rate of tax on employees
 7 for purposes of old-age, survivors, and disability insurance)
 8 is amended by striking out paragraphs (1) and (2) and
 9 inserting in lieu thereof the following:

1 “(1) with respect to wages received during the
2 calendar years 1974 through 1977, the rate shall be
3 4.95 percent;

4 “(2) with respect to wages received during the
5 calendar years 1974 through 1977, the rate shall be
6 5.10 percent;

7 “(3) with respect to wages received during the
8 calendar year 1981, the rate shall be 5.60 percent;

9 “(4) with respect to wages received during the
10 calendar years 1982 through 1984, the rate shall be
11 5.50 percent;

12 “(5) with respect to wages received during the
13 calendar years 1985 through 1999, the rate shall be
14 5.95 percent;

15 “(6) with respect to wages received during the
16 calendar years 2000 through 2010, the rate shall be 6.20
17 percent; and

18 “(7) with respect to wages received after Decem-
19 ber 31, 2010, the rate shall be 7.20 percent.”.

20 (2) Section 3111 (a) of such Code (relating to rate
21 of tax on employers for purposes of old-age, survivors, and
22 disability insurance) is amended by striking out paragraphs
23 (1) and (2) and inserting in lieu thereof the following:

24 “(1) with respect to wages paid during the calen-

1 dar years 1974 through 1977, the rate shall be 4.95
2 percent;

3 “ (2) with respect to wages paid during the cal-
4 endar years 1978 through 1980, the rate shall be 5.10
5 percent;

6 “ (3) with respect to wages paid during the cal-
7 endar year 1981, the rate shall be 5.60 percent;

8 “ (4) with respect to wages paid during the calen-
9 dar years 1982 through 1984, the rate shall be 5.50
10 percent;

11 “ (5) with respect to wages paid during the cal-
12 endar years 1985 through 1999, the rate shall be 5.95
13 percent;

14 “ (6) with respect to wages paid during the cal-
15 endar years 2000 through 2010, the rate shall be 6.20
16 percent; and

17 “ (7) with respect to wages paid after December 31,
18 2010, the rate shall be 7.20 percent.”.

19 (3) Section 1401 (a) of such Code (relating to rate of
20 tax on self-employment income for purposes of old-age, sur-
21 vivors, and disability insurance) is amended by striking
22 out “a tax” and all that follows and inserting in lieu thereof
23 the following: “a tax as follows:

24 “ (1) in the case of any taxable year beginning

1 before January 1, 1978, the tax shall be equal to 7.0
2 percent of the amount of the self-employment income
3 for such taxable year;

4 “(2) in the case of any taxable year beginning
5 after December 31, 1977, and before January 1, 1981,
6 the tax shall be equal to 7.15 percent of the amount of
7 the self-employment income for such taxable year;

8 “(3) in the case of any taxable year beginning after
9 December 31, 1980, and before January 1, 1982, the
10 tax shall be equal to 7.65 percent of the amount of the
11 self-employment income for such taxable year;

12 “(4) in the case of any taxable year beginning
13 after December 31, 1981, and before January 1, 1985,
14 the tax shall be equal to 7.55 percent of the amount of
15 the self-employment income for such taxable year;

16 “(5) in the case of any taxable year beginning after
17 December 31, 1984, and before January 1, 2000, the
18 tax shall be equal to 8.00 percent of the amount of the
19 self-employment income for such taxable year; and

20 “(6) in the case of any taxable year beginning
21 after December 31, 1999, the tax shall be equal to 8.25
22 percent of the amount of the self-employment income
23 for such taxable year.”.

24 (b) (1) Section 3101 (b) of such Code (relating to rate
25 of tax on employees for purposes of hospital insurance) is

1 amended by striking out paragraphs (1) through (4) and
2 inserting in lieu thereof the following:

3 “(1) with respect to wages received during the
4 calendar years 1974 through 1977, the rate shall be
5 0.90 percent;

6 “(2) with respect to wages received during the
7 calendar years 1978 through 1980, the rate shall be
8 0.95 percent;

9 “(3) with respect to wages received during the
10 calendar year 1981, the rate shall be 1.20 percent;

11 “(4) with respect to wages received during the
12 calendar years 1982 through 1985, the rate shall be
13 1.30 percent; and

14 “(5) with respect to wages received after Decem-
15 ber 31, 1985, the rate shall be 1.45 percent.”.

16 (2) Section 3111 (b) of such Code (relating to rate of
17 tax on employers for purposes of hospital insurance) is
18 amended by striking out paragraphs (1) through (4) and
19 inserting in lieu thereof the following:

20 “(1) with respect to wages paid during the cal-
21 endar years 1974 through 1977, the rate shall be 0.90
22 percent;

23 “(2) with respect to wages paid during the cal-
24 endar years 1978 through 1980, the rate shall be 0.95
25 percent;

1 “(3) with respect to wages paid during the calendar
2 year 1981, the rate shall be 1.20 percent;

3 “(4) with respect to wages paid during the cal-
4 endar years 1982 through 1985, the rate shall be 1.30
5 percent; and

6 “(5) with respect to wages paid after December 31,
7 1985, the rate shall be 1.45 percent.”.

8 (3) Section 1401 (b) of such Code (relating to tax on
9 self-employment income for purposes of hospital insurance)
10 is amended by striking out paragraphs (1) through (4)
11 and inserting in lieu thereof the following:

12 “(1) in the case of any taxable year beginning
13 after December 31, 1973, and before January 1, 1978,
14 the tax shall be equal to 0.90 percent of the amount of
15 the self-employment income for such taxable year;

16 “(2) in the case of any taxable year beginning
17 after December 31, 1977, and before January 1, 1981,
18 the tax shall be equal to 0.95 percent of the amount of
19 the self-employment income for such taxable year;

20 “(3) in the case of any taxable year beginning
21 after December 31, 1980, and before January 1, 1982,
22 the tax shall be equal to 1.20 percent of the amount of
23 the self-employment income for such taxable year;

24 “(4) in the case of any taxable year beginning
25 after December 31, 1981, and before January 1, 1986,

1 the tax shall be equal to 1.30 percent of the amount of
2 the self-employment income for such taxable year; and

3 “(5) in the case of any taxable year beginning
4 after December 31, 1985, the tax shall be equal to 1.45
5 percent of the amount of the self-employment income
6 for such taxable year.”.

7 ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

8 SEC. 102. (a) (1) Section 201 (b) (1) of the Social
9 Security Act is amended by striking out clauses (G)
10 through (J) and inserting in lieu thereof the following:

11 “(G) 1.60 per centum of the wages (as so defined) paid
12 after December 31, 1977, and before January 1, 1981, and
13 so reported, (H) 1.80 per centum of the wages (as so
14 defined) paid after December 31, 1980, and before Janu-
15 ary 1, 1982, and so reported, (I) 1.75 per centum of the
16 wages (as so defined) paid after December 31, 1981, and
17 before January 1, 1985, and so reported, (J) 2.00 per
18 centum of the wages (as so defined) paid after Decem-
19 ber 31, 1984, and before January 1, 2000, and so reported,
20 (K) 2.20 per centum of the wages (as so defined) paid after
21 December 31, 1999, and before January 1, 2011, and so
22 reported, and (L) 2.40 per centum of the wages (as so
23 defined) paid after December 31, 2010, and so reported.”.

24 (2) Section 201 (b) (2) of such Act is amended by
25 striking out clauses (G) through (J) and inserting in lieu

1 thereof the following: “(G) 1.12 per centum of the amount
2 of self-employment income (as so defined) so reported for any
3 taxable year beginning after December 31, 1977, and before
4 January 1, 1981, (H) 1.23 per centum of the amount of
5 self-employment income (as so defined) so reported for any
6 taxable year beginning after December 31, 1980, and before
7 January 1, 1982, (I) 1.20 per centum of the amount of
8 self-employment income (as so defined) so reported for any
9 taxable year beginning after December 31, 1981, and before
10 January 1, 1985, (J) 1.34 per centum of the amount of
11 self-employment income (as so defined) so reported for any
12 taxable year beginning after December 31, 1984, and before
13 January 1, 2000, (K) 1.46 per centum of the amount
14 of self-employment income (as so defined) so reported for any
15 taxable year beginning after December 31, 1999, and before
16 January 1, 2011, and (L) 1.38 per centum of the amount of
17 self-employment income (as so defined) so reported for any
18 taxable year beginning after December 31, 2010.”.

19 SEC. 103. (a) Part A of title XI of the Social Security
20 Act is amended by adding at the end thereof the following
21 new section:

22 “BORROWING AMONG SOCIAL SECURITY TRUST FUNDS
23 “SEC. 1132. (a) If at any time the Board of Trustees
24 of the Federal Old-Age and Survivors Insurance Trust Fund,
25 the Federal Disability Insurance Trust Fund, or the Federal

1 Hospital Insurance Trust Fund determines that the balance
2 remaining in such Fund is or will shortly be insufficient to
3 make the payments required of such Fund as and when due,
4 or otherwise to continue the full operation of such Fund in
5 accordance with the applicable provisions of this Act, it may
6 make a formal request for a loan from either or both of
7 the other two Funds, and the Board of Trustees of the Fund
8 to which any such request is directed may, in its discretion,
9 make a loan or loans to the requesting Fund, on appropriate
10 terms and conditions consistent with this section, in a total
11 sum not exceeding the amount needed (in addition to any
12 moneys available to the requesting Fund from other sources)
13 to prevent the exhaustion of such Fund and to permit it
14 (over a reasonable period of time) to make such required
15 payments and continue such operation.

16 “(b) Any loan made by one Trust Fund to another
17 Fund under subsection (a) shall be repayable, with interest
18 at a rate (as determined by the Secretary of the Treasury)
19 equal to the average market yield on outstanding marketable
20 obligations of the United States of comparable maturities at
21 the time the loan was made, within a term of not more than
22 two years, except that the term of any such loan may be
23 extended in the discretion of the Board of Trustees of the
24 Fund from which it was made, upon application by the
25 Board of Trustees of the requesting Fund, for one or more

1 additional terms of not more than two years. The Managing
2 Trustee of the Fund to which any such loan is made is
3 directed to make the repayments from such Fund that are
4 required under this subsection, pursuant to and in accordance
5 with the terms and conditions of the loan.”.

6 (b) (1) The second sentence of section 201 (a) of such
7 Act is amended—

8 (A) by inserting “(including loans under section
9 1132)” after “and such amounts”; and

10 (B) by striking out “as hereinafter provided” and
11 inserting in lieu thereof “as provided in this section
12 and section 1132”.

13 (2) The second sentence of section 201 (b) of such Act
14 is amended—

15 (A) by inserting “(including loans under section
16 1132)” after “and of such amounts”; and

17 (B) by inserting “and section 1132” after “this
18 section”.

19 (3) The second sentence of section 1817 (a) of such
20 Act is amended—

21 (A) by inserting “(including loans under section
22 1132)” after “and such amounts”; and

23 (B) by inserting “and section 1132” after “this
24 part”.

1 not exceed the amount established for purposes of this
2 clause by subparagraph (B), and

3 “(iii) 15 percent of the individual’s average in-
4 dexed monthly earnings to the extent that such earnings
5 exceed the amount established for purposes of clause (ii),
6 rounded in accordance with subsection (g), and thereafter
7 increased as provided in subsection (i).

8 “(B) (i) For individuals who initially become eligible
9 for old-age or disability insurance benefits or die in the cal-
10 endar year 1979, the amounts established for purposes of
11 clauses (i) and (ii) of subparagraph (A) shall be \$180
12 and \$1,085, respectively.

13 “(ii) For individuals who initially become eligible for
14 old-age or disability insurance benefits or die in any calendar
15 year after 1979, each of the amounts so established shall
16 equal the product of the corresponding amount established
17 with respect to the calendar year 1979 under clause (i) of
18 this subparagraph and the quotient obtained by dividing—

19 “(I) the average of the total wages (as defined in
20 regulations of the Secretary and computed without re-
21 gard to the limitations specified in section 209(a))
22 reported to the Secretary of the Treasury or his delegate
23 for the second calendar year preceding the calendar year
24 for which the determination is made, by

25 “(II) the average of the total wages (as so defined

1 and computed) reported to the Secretary of the Treasury
2 or his delegate for the calendar year 1977.

3 “(iii) Each amount established under clause (ii) for
4 any calendar year shall be rounded to the nearest \$1, except
5 that any amount so established which is a multiple of \$0.50
6 but not of \$1 shall be rounded to the next higher \$1.

7 “(C) (i) No primary insurance amount computed under
8 subparagraph (A) may be less than—

9 “(I) \$114.30, or

10 “(II) an amount equal to \$11.50 multiplied by the
11 individual's years of coverage in excess of 10, or the
12 increased amount determined for purposes of this sub-
13 division under subsection (i),

14 whichever is greater. No increase under subsection (i), oc-
15 ccurring before the year in which an individual becomes eli-
16 gible for old-age or disability insurance benefits or dies, shall
17 apply to the dollar amount specified in subdivision (I) of
18 this clause with respect to such individual.

19 “(ii) For purposes of clause (i) (II), the term ‘years
20 of coverage’ with respect to any individual means the number
21 (not exceeding 30) equal to the sum of (I) the number
22 (not exceeding 14 and disregarding any fraction) deter-
23 mined by dividing (a) the total of the wages credited to
24 such individual (including wages deemed to be paid prior
25 to 1951 to such individual under section 217, compensation

1 under the Railroad Retirement Act of 1937 prior to 1951
2 which is creditable to such individual pursuant to this title,
3 and wages deemed to be paid prior to 1951 to such individual
4 under section 231) for years after 1936 and before 1951
5 by (b) \$900, plus (II) the number equal to the number of
6 years after 1950 each of which is a computation base year
7 (within the meaning of subsection (b) (2) (B) (ii)) and in
8 each of which he is credited with wages (including wages
9 deemed to be paid to such individual under section 217,
10 compensation under the Railroad Retirement Act of 1937 or
11 1974 which is creditable to such individual pursuant to this
12 title, and wages deemed to be paid to such individual under
13 section 229) and self-employment income of not less than
14 25 percent of the maximum amount which, pursuant to sub-
15 section (e), may be counted for such year.

16 “(D) In each calendar year after 1978 the Secretary
17 shall publish in the Federal Register, on or before Novem-
18 ber 1, the formula for computing benefits under this para-
19 graph and for adjusting wages and self-employment income
20 under subsection (b) (3) in the case of an individual who
21 becomes eligible for an old-age insurance benefit, or (if
22 earlier) becomes eligible for a disability insurance benefit
23 or dies, in the following year, and the average of the total
24 wages (as described in subparagraph (B) (ii) (I)) on
25 which that formula is based. With the initial publication re-

1 quired by this subparagraph, the Secretary shall also publish
2 in the Federal Register the average of the total wages (as
3 so described) for each calendar year after 1950.

4 “(2) (A) A year shall not be counted as the year of an
5 individual's death or eligibility for purposes of this sub-
6 section or subsection (b) or (i) in any case where such
7 individual was entitled to a disability insurance benefit for
8 any of the 12 months immediately preceding the month of
9 such death or eligibility (but there shall be counted instead
10 the year of the individual's eligibility for the disability insur-
11 ance benefit or benefits to which he was entitled during
12 such 12 months).

13 “(B) In the case of an individual who was entitled
14 to a disability insurance benefit for any of the 12 months
15 before the month in which he became entitled to an old-age
16 insurance benefit, became reentitled to a disability insurance
17 benefit, or died, the primary insurance amount for determin-
18 ing any benefit attributable to that entitlement, reentitle-
19 ment, or death is the greater of—

20 “(i) the primary insurance amount upon which
21 such disability insurance benefit was based, increased by
22 the amount of each general benefit increase (as defined
23 in subsection (i) (3)), and each increase provided
24 under subsection (i) (2), that would have applied to
25 such primary insurance amount had the individual re-

1 mained entitled to such disability insurance benefit until
 2 the month in which he became so entitled or reentitled
 3 or died, or

4 “(ii) the amount computed under paragraph (1)
 5 (C).

6 “(C) In the case of an individual who was entitled to a
 7 disability insurance benefit for any month, and with respect
 8 to whom a primary insurance amount is required to be com-
 9 puted at any time after the close of the period of the indi-
 10 vidual’s disability (whether because of such individual’s sub-
 11 sequent entitlement to old-age insurance benefits or to a
 12 disability insurance benefit based upon a subsequent period
 13 of disability, or because of such individual’s death), the
 14 primary insurance amount so computed may in no case be
 15 less than the primary insurance amount with respect to
 16 which such former disability insurance benefit was most re-
 17 cently determined.

18 “(3) (A) Paragraph (1) applies only to an individual
 19 who was not eligible for an old-age insurance benefit prior
 20 to January 1979 and who in that or any succeeding month—

21 “(i) becomes eligible for such a benefit,

22 “(ii) becomes eligible for a disability insurance
 23 benefit, or

24 “(iii) dies,

25 and (except for subparagraph (C) (i) (II) thereof) it ap-

1 plies to every such individual except to the extent otherwise
2 provided by paragraph (4).

3 “(B) For purposes of this title, an individual is deemed
4 to be eligible—

5 “(i) for old-age insurance benefits, for months be-
6 ginning with the month in which he attains age 62, or

7 “(ii) for disability insurance benefits, for months
8 beginning with the month in which his period of dis-
9 ability began as provided under section 216 (i) (2) (C),

10 except as provided in paragraph (2) (A) in cases where
11 fewer than 12 months have elapsed since the termination of a
12 prior period of disability.

13 “(4) Paragraph (1) (except for subparagraph (C) (i)
14 (II) thereof) does not apply to the computation or recom-
15 putation of a primary insurance amount for—

16 “(A) an individual who was eligible for a disability
17 insurance benefit for a month prior to January 1979
18 unless, prior to the month in which occurs the event
19 described in clause (i), (ii), or (iii) of paragraph (3)
20 (A), there occurs a period of at least 12 consecutive
21 months for which he was not entitled to a disability
22 insurance benefit, or

23 “(B) an individual who had wages or self-employ-
24 ment income credited for one or more years prior to
25 1979, and who was not eligible for an old-age or disa-

1 bility insurance benefit, and did not die, prior to January
2 1979, if in the year for which the computation or re-
3 computation would be made the individual's primary
4 insurance amount would be greater if computed or
5 recomputed—

6 “(i) under section 215 (a) as in effect in
7 December 1978, for purposes of old-age insurance
8 benefits in the case of an individual who becomes
9 eligible for such benefits prior to 1989, or

10 “(ii) as provided by section 215 (d), in the
11 case of an individual to whom such section applies.

12 In determining whether an individual's primary insurance
13 amount would be greater if computed or recomputed as pro-
14 vided in subparagraph (B), (I) the table of benefits in
15 effect in December 1978 shall be applied without regard
16 to any increases in that table which may become effective
17 (in accordance with subsection (i) (4)) for years after
18 1978 (subject to subsection (i) (2) (A) (iii)) and (II)
19 such individual's average monthly wage shall be computed
20 as provided by subsection (b) (4).

21 “(5) For purposes of computing the primary insurance
22 amount (after December 1978) of an individual to whom
23 paragraph (1) does not apply (other than an individual
24 described in paragraph (4) (B)), this section as in effect
25 in December 1978 shall remain in effect, except that, effec-

1 tive for January 1979, the dollar amount specified in para-
 2 graph (3) of subsection (a) shall be increased to \$11.50.
 3 The table for determining primary insurance amounts and
 4 maximum family benefits contained in this section in Decem-
 5 ber 1978 shall be revised as provided by subsection (i) for
 6 each year after 1978.”.

7 (b) Section 215 (b) of such Act is amended to read as
 8 follows:

9 “Average Indexed Monthly Earnings; Average Monthly
 10 Wage

11 “(b) (1) An individual’s average indexed monthly
 12 earnings shall be equal to the quotient obtained by dividing—

13 “(A) the total (after adjustment under paragraph
 14 (3)) of his wages paid in and self-employment income
 15 credited to his benefit computation years (determined
 16 under paragraph (2)), by

17 “(B) the number of months in those years.

18 “(2) (A) The number of an individual’s benefit com-
 19 putation years equals the number of elapsed years, reduced
 20 by five, except that the number of an individual’s benefit
 21 computation years may not be less than two.

22 “(B) For purposes of this subsection with respect to
 23 any individual—

24 “(i) the term ‘benefit computation years’ means
 25 those computation base years, equal in number to the

1 number determined under subparagraph (A), for which
2 the total of such individual's wages and self-employment
3 income, after adjustment under paragraph (3), is the
4 largest;

5 " (ii) the term 'computation base years' means the
6 calendar years after 1950 and before—

7 " (I) in the case of an individual entitled to
8 old-age insurance benefits, the year in which oc-
9 curred (whether by reason of section 202 (j) (1) or
10 otherwise) the first month of that entitlement; or

11 " (II) in the case of an individual who has
12 died (without having become entitled to old-age in-
13 surance benefits), the year succeeding the year of
14 his death;

15 except that such term excludes any calendar year en-
16 tirely included in a period of disability; and

17 " (iii) the term 'number of elapsed years' means
18 (except as otherwise provided by section 104 (j) (2)
19 of the Social Security Amendments of 1972) the num-
20 ber of calendar years after 1950 (or, if later, the year
21 in which the individual attained age 21) and before the
22 year in which the individual died, or, if it occurred
23 earlier but after 1960, the year in which he attained age
24 62; except that such term excludes any calendar year
25 any part of which is included in a period of disability.

1 “(3) (A) Except as provided by subparagraph (B),
2 the wages paid in and self-employment income credited to
3 each of an individual’s computation base years for purposes
4 of the selection therefrom of benefit computation years under
5 paragraph (2) shall be deemed to be equal to the product
6 of—

7 “(i) the wages and self-employment income paid
8 in or credited to such year (as determined without
9 regard to this subparagraph, and

10 “(ii) the quotient obtained by dividing—

11 “(I) the average of the total wages (as defined
12 in regulations of the Secretary and computed with-
13 out regard to the limitations specified in section 209
14 (a)) reported to the Secretary of the Treasury or
15 his delegate for the second calendar year (after 1976)
16 preceding the year of the individual’s death or initial
17 eligibility for an old-age or disability insurance bene-
18 fit, whichever is earliest, by

19 “(II) the average of the total wages (as so defined
20 and computed) reported to the Secretary of the Treasury
21 or his delegate for the computation base year for which
22 the determination is made.

23 “(B) Wages paid in or self-employment income cred-
24 ited to an individual’s computation base year which—

1 “(i) occurs after the second calendar year specified
2 in subparagraph (A) (ii) (I), or

3 “(ii) is a year treated under subsection (f) (2)
4 (C) as though it were the last year of the period spec-
5 fied in subsection (b) (2) (B) (ii),

6 shall be available for use in determining an individual's bene-
7 fit computation years, but without applying subparagraph
8 (A) of this paragraph.

9 “(4) For purposes of determining the average monthly
10 wage of an individual whose primary insurance amount is
11 computed (after 1978) under section 215 (a) or 215 (d)
12 as in effect (except with respect to the table contained
13 therein) in December 1978, by reason of subsection
14 (a) (4) (B), this subsection as in effect in December 1978
15 shall remain in effect, except that paragraph (2) (C) (as
16 then in effect) shall be deemed to provide that ‘computation
17 base years’ include only calendar years in the period after
18 1950 (or 1936, if applicable) and prior to the year in
19 which occurred the first month for which the individual was
20 eligible (as defined in subsection (a) (3) (B) as in effect
21 in January 1979) for an old-age or disability insurance
22 benefit, or died. Any calendar year all of which is included
23 in a period of disability shall not be included as a computa-
24 tion base year for such purposes.”.

1 (c) Section 215 (c) of such Act is amended to read
2 as follows:

3 "Application of Prior Provisions in Certain Cases

4 "(c) This subsection as in effect in December 1978
5 shall remain in effect with respect to an individual to whom
6 subsection (a) (1) does not apply by reason of the indi-
7 vidual's eligibility for an old-age or disability insurance bene-
8 fit, or the individual's death, prior to 1979."

9 (d) (1) The matter in the text of section 215 (d) of
10 such Act which precedes paragraph (1) (C) is amended to
11 read as follows:

12 "(d) (1) For purposes of column I of the table appear-
13 ing in subsection (a), as that subsection was in effect in
14 December 1977, an individual's primary insurance benefit
15 shall be computed as follows:

16 "(A) The individual's average monthly wage shall
17 be determined as provided in subsection (b), as in effect
18 in December 1977 (but without regard to paragraph
19 (4) thereof), except that for purposes of paragraphs
20 (2) (C) and (3) of that subsection (as so in effect)
21 1936 shall be used instead of 1950.

22 "(B) For purposes of subparagraphs (B) and (C)
23 of subsection (b) (2) (as so in effect), the total wages
24 prior to 1951 (as defined in subparagraph (C) of this
25 paragraph) of an individual who attained age 21 after

1 1936 and prior to 1951 shall be divided by the number
2 of years (hereinafter in this subparagraph referred to as
3 the 'divisor') elapsing after the year in which the individ-
4 ual attained age 21 and prior to the earlier of 1951 or the
5 year of the individual's death. The quotient so obtained
6 shall be deemed to be the individual's wages credited to
7 each of the years included in the divisor, except that—

8 " (i) if the quotient exceeds \$3,000, only \$3,000
9 shall be deemed to be the individual's wages for each
10 of years included in the divisor, and the remainder
11 of the individual's total wages prior to 1951 (I) if
12 less than \$3,000, shall be deemed credited to the
13 year in which the individual attained age 21, or
14 (II) if \$3,000 or more, shall be deemed credited,
15 in \$3,000 increments, to the year in which the indi-
16 vidual attained age 21 and to each year consecu-
17 tively preceding that year, with any remainder
18 less than \$3,000 being credited to the year immedi-
19 ately preceding the earliest year to which a full
20 \$3,000 increment was credited; and

21 " (ii) no more than \$42,000 may be taken into
22 account, for purposes of this subparagraph, as total
23 wages after 1936 and prior to 1951."

24 (2) Section 215 (d) (1) (D) of such Act is amended
25 to read as follows:

1 “(D) The individual’s primary insurance benefit
2 shall be 40 percent of the first \$50 of his average
3 monthly wage as computed under this subsection, plus
4 10 percent of the next \$200 of his average monthly
5 wage, increased by 1 percent for each increment year.
6 The number of increment years is the number, not more
7 than 14 nor less than 4, that is equal to the individual’s
8 total wages prior to 1951 divided by \$1,650 (disre-
9 garding any fraction).”.

10 (3) Section 215 (d) (3) of such Act is amended (A)
11 by striking out “in the case of an individual” and all that
12 follows and inserting in lieu thereof the following “in the
13 case of an individual who had a period of disability which
14 began prior to 1951, but only if the primary insurance
15 amount resulting therefrom is higher than the primary in-
16 surance amount resulting from the application of this section
17 (as amended by the Social Security Amendments of 1967)
18 and section 220.”.

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

21 “(4) The provisions of this subsection as in effect in
22 December 1977 shall be applicable to individuals who be-
23 come eligible for old-age or disability insurance benefits or
24 die prior to 1978.”.

25 (e) Section 215 (e) of such Act is amended—

1 (1) by striking out "average monthly wage" each
2 place it appears and inserting in lieu thereof "average
3 indexed monthly earnings or, in the case of an individual
4 whose primary insurance amount is computed under
5 section 215 (a) as in effect prior to January 1979,
6 average monthly wage," and

7 (2) by inserting immediately before "of (A)" in
8 paragraph (1) the following: "(before the application,
9 in the case of average indexed monthly earnings, of sub-
10 section (b) (3) (A))".

11 (f) (1) Section 215 (f) (2) of this Act is amended to
12 read as follows:

13 “(2) (A) If an individual has wages or self-employ-
14 ment income for a year after 1978 for any part of which he
15 is entitled to old-age or disability insurance benefits, the
16 Secretary shall, at such time or times and within such period
17 as he may by regulation prescribe, recompute the individual's
18 primary insurance amount for that year.

19 “(B) For the purpose of applying subparagraph (A)
20 of subsection (a) (1) to the average indexed monthly earn-
21 ings of an individual to whom that subsection applies and
22 who receives a recomputation under this paragraph, there
23 shall be used, in lieu of the amounts established by subsection
24 (a) (1) (B) for purposes of clauses (i) and (ii) of subsec-

1 tion (a) (1) (A), the amounts so established that were (or,
2 in the case of an individual described in subsection (a) (4)
3 (B), would have been) used in the computation of such
4 individual's primary insurance amount prior to the applica-
5 tion of this subsection.

6 “(C) A recomputation of any individual's primary in-
7 surance amount under this paragraph shall be made as pro-
8 vided in subsection (a) (1) as though the year with respect
9 to which it is made is the last year of the period specified in
10 subsection (b) (2) (B) (ii); and subsection (b) (3) A)
11 shall apply with respect to any such recomputation as it
12 applied in the computation of such individual's primary in-
13 surance amount prior to the application of this subsection.

14 “(D) A recomputation under this paragraph with re-
15 spect to any year shall be effective—

16 “(i) in the case of an individual who did not die
17 in that year, for monthly benefits beginning with bene-
18 fits for January of the following year; or

19 “(ii) in the case of an individual who died in that
20 year, for monthly benefits beginning with benefits for
21 the month in which he died.”.

22 (2) Section 215 (f) (3) of such Act is repealed.

23 (3) Section 215 (f) (4) of such Act is amended to read
24 as follows:

1 “(4) A recomputation shall be effective under this sub-
2 section only if it increases the primary insurance amount
3 by at least \$1.”.

4 (4) Section 215 (f) of such Act is further amended
5 by adding at the end thereof the following new paragraphs:

6 “(7) This subsection as in effect in December 1978
7 shall continue to apply to the recomputation of a primary
8 insurance amount computed under subsection (a) or (d)
9 as in effect (without regard to the table in subsection (a))
10 in that month, and, where appropriate, under subsection (d)
11 as in effect in December 1977. For purposes of recomputing
12 a primary insurance amount determined under subsection
13 (a) or (d) (as so in effect) in the case of an individual to
14 whom those subsections apply by reason of subsection
15 (a) (4) (B) as in effect after December 1978, no remun-
16 eration shall be taken into account for the year in which
17 the individual initially became eligible for an old-age or dis-
18 ability insurance benefit or died, or for any year thereafter.

19 “(8) The Secretary shall recompute the primary in-
20 surance amounts applicable to beneficiaries whose benefits
21 are based on a primary insurance amount which was com-
22 puted under section 215 (a) (3) effective prior to Janu-
23 ary 1979, or would have been so computed if the dollar
24 amount specified therein were \$11.50. Such recomputation
25 shall be effective January 1979, and shall include the effect

1 of the increase in the dollar amount provided by section 215
2 (a) (1) (C) (i) (II). Such primary insurance amount shall
3 be deemed to be provided under such section for purposes of
4 section 215 (i).”.

5 (g) (1) Section 215 (i) (2) (A) (ii) of such Act is
6 amended to read as follows:

7 “(ii) If the Secretary determines that the base quarter
8 in any year is a cost-of-living computation quarter, he shall,
9 effective with the month of June of that year as provided in
10 subparagraph (B), increase—

11 “(I) the benefit amount to which individuals are
12 entitled for that month under section 227 or 228,

13 “(II) the primary insurance amount of each other
14 individual on which benefit entitlement is based under
15 this title (including a primary insurance amount deter-
16 mined under subsection (a) (1) (C) (i)), and

17 “(III) the amount of total monthly benefits based
18 on any primary insurance amount which is permitted
19 under section 203 (and such total shall be increased,
20 unless otherwise so increased under another provision of
21 this title, at the same time as such primary insurance
22 amount) or, in the case of a primary insurance amount
23 computed under subsection (a) as in effect (without
24 regard to the table contained therein) prior to January
25 1979, the amount to which the beneficiaries may be

1 entitled under section 203 as in effect in December 1978,
2 except as provided by section 203 (a) (6) and (7) as
3 in effect after December 1978.

4 The increase shall be derived by multiplying each of the
5 amounts described in subdivisions (I), (II), and (III)
6 (including each of those amounts as previously increased
7 under this subparagraph) by the same percentage (rounded
8 to the nearest one-tenth of 1 percent) as the percentage by
9 which the Consumer Price Index for that cost-of-living com-
10 putation quarter exceeds such index for the most recent prior
11 calendar quarter which was a base quarter under paragraph
12 (1) (A) (ii) or, if later, the most recent cost-of-living
13 computation quarter under paragraph (1) (B); and any
14 amount so increased that is not a multiple of \$0.10 shall be
15 increased to the next higher multiple of \$0.10. Any increase
16 under this subsection in a primary insurance amount deter-
17 mined under subparagraph (C) (i) (II) of subsection (a)
18 (1) shall be applied after the initial determination of such pri-
19 mary insurance amount under that subparagraph (with the
20 amount of such increase, in the case of an individual who
21 becomes eligible for old-age or disability insurance benefits
22 or dies in a calendar year after 1979, being determined from
23 the range of possible primary insurance amounts published
24 by the Secretary under the last sentence of subparagraph
25 (D)).”.

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

3 “(iii) In the case of an individual who becomes eligible
4 for an old-age or disability insurance benefit, or who dies
5 prior to becoming so eligible, in a year in which there occurs
6 an increase provided under clause (ii), the individual’s pri-
7 mary insurance amount (without regard to the time of en-
8 titlement to that benefit) shall be increased (unless other-
9 wise so increased under another provision of this title) by
10 the amount of that increase, but only with respect to benefits
11 payable for months after May of that year.”.

12 (3) Section 215 (i) (2) (D) of such Act is further
13 amended by striking out all that follows the first sentence
14 and inserting in lieu thereof the following: “He shall also
15 publish in the Federal Register at that time (i) a revision
16 of the range of the primary insurance amounts which are
17 possible after the application of this subsection based on the
18 dollar amount specified in subparagraph (C) (i) (II) of
19 subsection (a) (1) (with such revised primary insurance
20 amounts constituting the increased amounts determined for
21 purposes of such subparagraph (C) (i) (II) under this sub-
22 section), or specified in section 215 (a) (3) as in effect prior
23 to 1979, and (ii) a revision of the range of maximum family
24 benefits which correspond to such primary insurance
25 amounts (with such maximum benefits being effective not-

1 withstanding section 203 (a) except for paragraph (3) (B)
2 thereof (or paragraph (2) thereof as in effect prior to
3 1979)).”.

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

6 “(4) This subsection as in effect in December 1978 shall
7 continue to apply to subsections (a) and (d), as then in
8 effect, for purposes of computing the primary insurance
9 amount of an individual to whom subsection (a), as in effect
10 after December 1978, does not apply (including an individ-
11 ual to whom subsection (a) does not apply in any year by
12 reason of paragraph (4) (B) of that subsection (but the
13 application of this subsection in such cases shall be modified
14 by the application of clause (I) in the last sentence of para-
15 graph (4) of that subsection)). For purposes of computing
16 primary insurance amounts and maximum family benefits
17 (other than primary insurance amounts and maximum
18 family benefits for individuals to whom such paragraph (4)
19 (B) applies), the Secretary shall publish in the Federal
20 Register revisions of the table of benefits contained in sub-
21 section (a), as in effect in December 1978, as required by
22 paragraph (2) (D) of this subsection as then in effect.”.

23

MAXIMUM BENEFITS

24 SEC. 202. Section 203 (a) of the Social Security Act is
25 amended to read as follows:

1 “Maximum Benefits

2 “(a) (1) In the case of an individual whose primary
3 insurance amount has been computed or recomputed under
4 section 215 (a) (1) or (4), or section 215 (d), as in effect
5 after December 1978, the total monthly benefits to which
6 beneficiaries may be entitled under section 202 or 223 for a
7 month on the basis of the wages and self-employment in-
8 come of such individual shall, except as provided by para-
9 graph (3) (but prior to any increases resulting from the
10 application of paragraph (2) (A) (ii) (III) of section 215
11 (i)), be reduced as necessary so as not to exceed—

12 “(A) 150 percent of such individual’s primary
13 insurance amount to the extent that it does not exceed
14 the amount established with respect to this subparagraph
15 by paragraph (2),

16 “(B) 272 percent of such individual’s primary
17 insurance amount to the extent that it exceeds the
18 amount established with respect to subparagraph (A)
19 but does not exceed the amount established with respect
20 to this subparagraph by paragraph (2),

21 “(C) 134 percent of such individual’s primary in-
22 surance amount to the extent that it exceeds the amount
23 established with respect to subparagraph (B) but does
24 not exceed the amount established with respect to this
25 subparagraph by paragraph (2), and

1 “(D) 175 percent of such individual’s primary
2 insurance amount to the extent that it exceeds the amount
3 established with respect to subparagraph (C).

4 Any such amount that is not a multiple of \$0.10 shall be
5 increased to the next higher multiple of \$0.10.

6 “(2) (A) For individuals who initially become eligible
7 for old-age or disability insurance benefits or die in the calen-
8 dar year 1979, the amounts established with respect to sub-
9 paragraphs (A), (B), and (C) of paragraph (1) shall be
10 \$230, \$332, and \$433, respectively.

11 “(B) For individuals who initially become eligible for
12 old-age or disability insurance benefits or die in any calendar
13 year after 1979, each of the amounts so established shall
14 equal the product of the corresponding amount established
15 for the calendar year 1979 by subparagraph (A) of this
16 paragraph and the quotient obtained under subparagraph
17 (B) (ii) of section 215 (a) (1), with such product being
18 rounded in the manner prescribed by section 215 (a) (1)
19 (B) (iii).

20 “(C) In each calendar year after 1978 the Sec-
21 retary shall publish in the Federal Register, on or before
22 November 1, the formula which (except as provided in sec-
23 tion 215 (i) (2) (D)) is to be applicable under this para-
24 graph to individuals who become eligible for old-age or

1 disability insurance benefits, or die, in the following calendar
2 year.

3 “(D) A year shall not be counted as the year of an
4 individual’s death or eligibility for purposes of this para-
5 graph or paragraph (7) in any case where such individual
6 was entitled to a disability insurance benefit for any of the
7 12 months immediately preceding the month of such death
8 or eligibility (but there shall be counted instead the year of
9 the individual’s eligibility for the disability insurance benefits
10 to which he was entitled during such 12 months).

11 “(3) (A) When an individual who is entitled to bene-
12 fits on the basis of the wages and self-employment income
13 of any insured individual and to whom this subsection
14 applies would (but for the provisions of section 202 (k) (2)
15 (A)) be entitled to child’s insurance benefits for a month
16 on the basis of the wages and self-employment income of
17 one or more other insured individuals, the total monthly
18 benefits to which all beneficiaries are entitled on the basis
19 of such wages and self-employment income shall not be
20 reduced under this subsection to less than the smaller of—

21 “(i) the sum of the maximum amounts of bene-
22 fits payable on the basis of the wages and self-employ-
23 ment income or all such insured individuals, or

24 “(ii) an amount equal to the product of 1.75 and

1 the primary insurance amount that would be computed
2 under section 215 (a) (1) for that month with respect
3 to average indexed monthly earnings equal to one-
4 twelfth of the contribution and benefit base determined
5 for that year under section 230.

6 “(B) When two or more persons were entitled (with-
7 out the application of section 202 (j) (1) and section 223
8 (b)) to monthly benefits under section 202 or 223 for
9 January 1971 or any prior month on the basis of the wages
10 and self-employment income of such insured individual and
11 the provisions of this subsection as in effect for any such
12 month were applicable in determining the benefit amount
13 of any persons on the basis of such wages and self-em-
14 ployment income, the total of benefits for any month after
15 January 1971 shall not be reduced to less than the largest
16 of—

17 “(i) the amount determined under this subsection
18 without regard to this subparagraph,

19 “(ii) the largest amount which has been deter-
20 mined for any month under this subsection for persons
21 entitled to monthly benefits on the basis of such insured
22 individual’s wages and self-employment income, or

23 “(iii) if any persons are entitled to benefits on the
24 basis of such wages and self-employment income for
25 the month before the effective month (after September

1 1972) of a general benefit increase under this title (as
2 defined in section 215 (i) (3)) or a benefit increase un-
3 der the provisions of section 215 (i), an amount equal
4 to the sum of amounts derived by multiplying the bene-
5 fit amount determined under this title (excluding any
6 part thereof determined under section 202 (w)) for the
7 month before such effective month (including this sub-
8 section, but without the application of section 222 (b),
9 section 202 (q), and subsections (b), (c), and (d) of
10 this section), for each such person for such month, by a
11 percentage equal to the percentage of the increase pro-
12 vided under such benefit increase (with any such in-
13 creased amount which is not a multiple of \$0.10 being
14 rounded to the next higher multiple of \$0.10) ;

15 but in any such case (I) *subparagraph (A) of this para-*
16 *graph* shall not be applied to such total of benefits after the
17 application of clause (ii) or (iii), and (II) if section 202
18 (k) (2) (A) was applicable in the case of any such benefits
19 for a month, and ceases to apply for a month after such
20 month, the provisions of clause (ii) or (iii) shall be applied,
21 for and after the month in which section 202 (k) (2) (A)
22 ceases to apply, as though *subparagraph (A) of this para-*
23 *graph* had not been applicable to such total of benefits for
24 the last month for which clause (ii) or (iii) was applicable.

25 “(C) When any of such individuals is entitled to

1 monthly benefits as a divorced spouse under section 202
2 (b) or (c) or as a surviving divorced spouse under section
3 202 (e) or (f) for any month, the benefit to which he or she
4 is entitled on the basis of the wages and self-employment
5 income of such insured individual for such month shall be
6 determined without regard to this subsection, and the bene-
7 fits of all other individuals who are entitled for such month
8 to monthly benefits under section 202 on the wages and
9 self-employment income of such insured individual shall be
10 determined as if no such divorced spouse or surviving di-
11 vorced spouse were entitled to benefits for such month.

12 “(4) In any case in which benefits are reduced pursu-
13 ant to the preceding provisions of this subsection, the reduc-
14 tion shall be made after any deductions under this section
15 and after any deductions under section 222 (b). Whenever
16 a reduction is made under this subsection in the total of
17 monthly benefits to which individuals are entitled for any
18 month on the basis of the wages and self-employment in-
19 come of an insured individual, each such benefit other than
20 the old-age or disability insurance benefit shall be propor-
21 tionately decreased.

22 “(5) Notwithstanding any other provision of law,
23 when—

24 “(A) two or more persons are entitled to monthly
25 benefits for a particular month on the basis of the wages

1 and self-employment income of an insured individual
2 and (for such particular month) the provisions of this
3 subsection are applicable to such monthly benefits, and

4 “(B) such individual’s primary insurance amount
5 is increased for the following month under any provision
6 of this title,

7 then the total of monthly benefits for all persons on the basis
8 of such wages and self-employment income for such particu-
9 lar month, as determined under the provisions of this subsec-
10 tion, shall for purposes of determining the total monthly
11 benefits for all persons on the basis of such wages and self-
12 employment income for months subsequent to such particular
13 month be considered to have been increased by the smallest
14 amount that would have been required in order to assure
15 that the total of monthly benefits payable on the basis of
16 such wages and self-employment income for any such sub-
17 sequent month will not be less (after the application of the
18 other provisions of this subsection and section 202 (q)) than
19 the total of monthly benefits (after the application of the
20 other provisions of this subsection and section 202 (q)) pay-
21 able on the basis of such wages and self-employment income
22 for such particular month.

23 “(6) In the case of any individual who is entitled for
24 any month to benefits based upon the primary insurance
25 amounts of two or more insured individuals, one or more of

1 which primary insurance amounts were determined under
2 section 215 (a) or 215 (d) as in effect (without regard to
3 the table contained therein) prior to January 1979 and one
4 or more of which primary insurance amounts were deter-
5 mined under section 215 (a) (1) or (4), or section 215 (d),
6 as in effect after December 1978, the total benefits payable
7 to that individual and all other individuals entitled to benefits
8 for that month based upon those primary insurance amounts
9 shall be reduced to an amount equal to the product of 1.75
10 and the primary insurance amount that would be computed
11 under section 215 (a) (1) for that month with respect to
12 average indexed monthly earnings equal to one-twelfth of
13 the contribution and benefits base determined under section
14 230 for the year in which that month occurs.

15 “(7) Subject to paragraph (6), this subsection as in
16 effect in December 1978 shall remain in effect with respect
17 to a primary insurance amount computed under section 215
18 (a) or (d), as in effect (without regard to the table con-
19 tained therein) in December 1978, except that a primary
20 insurance amount so computed with respect to an individual
21 who first becomes eligible for an old-age or disability insur-
22 ance benefit, or dies, after December 1978, shall instead be
23 governed by this section as in effect after December 1978.”.

1 INCREASE IN MINIMUM RETIREMENT AGE FOR UNREDUCED
2 BENEFIT FROM 65 TO 68

3 SEC. 203. (a) Section 202 (q) (9) of the Social Secu-
4 rity Act is amended to read as follows:

5 “(9) For purposes of this subsection, with respect to the
6 entitlement of any individual to old-age, wife’s, husband’s,
7 widow’s, or widower’s insurance benefits under this section,
8 the term ‘retirement age’ means—

“The age of	If the individual attains such age in	And if the individual does not attain such age in or before the calendar year shown below, but files an application in such year
65 -----	December 1999 or before..	1999 or before.
65 years and 3 months..	April to December 2000..	2000.
65 years and 6 months..	April to December 2001..	2001.
65 years and 9 months..	April to December 2002..	2002.
66 years-----	April to December 2003..	2003.
66 years and 3 months..	April to December 2004..	2004.
66 years and 6 months..	April to December 2005..	2005.
66 years and 9 months..	April to December 2006..	2006.
67 years-----	April to December 2007..	2007.
67 years and 3 months..	April to December 2008..	2008.
67 years and 6 months..	April to December 2009..	2009.
67 years and 9 months..	April to December 2010..	2010.
68 years-----	After March 31, 2011----	2011 or after

9 For purposes of determining an individual’s ‘retirement
10 age’ with respect to old-age, widow’s, or widower’s insurance
11 benefits in a case where such individual (by reason of
12 previous entitlement to disability or mother’s or father’s
13 insurance benefits) is not required to file application there-
14 for, such individual shall be deemed to have filed an appli-

1 cation for such old-age, widow's, or widower's insurance
2 benefits at the time of his or her application for such dis-
3 ability or mother's or father's insurance benefits.”.

4 (b) (1) (A) Subsections (d) (8) (D) (ii), (e) (1),
5 (f) (1), (r) (1), (r) (2), and (w) (2) (A) of section
6 202 of such Act are amended by striking out “age 65”
7 each place it appears and inserting in lieu thereof “retire-
8 ment age (as defined in subsection (q) (9))”.

9 (B) Paragraphs (3) (A), (3) (B), and (5) (C) of
10 section 202 (q) of such Act are amended by striking out
11 “age 65” and inserting in lieu thereof “retirement age (as
12 defined in paragraph (9))”.

13 (C) Sections 215(f) (5), 216(h) (3) (A), 216(i)
14 (2) (D), and 223(a) (1) of such Act are amended by
15 striking out “age 65” each place it appears and inserting
16 in lieu thereof “retirement age (as defined in section 202
17 (q) (9))”.

18 (D) Section 202(a) (3) of such Act is amended by
19 striking out “the age of 65” and inserting in lieu thereof
20 “retirement age (as defined in subsection (q) (9))”.

21 (E) Section 226(h) (1) (A) of such Act is amended
22 by striking out “age 65” and inserting in lieu thereof
23 “retirement age (as defined in section 202(q) (9))”.

24 (2) Section 216(i) (2) (B) of such Act is amended

1 by striking out “the age of 65” and inserting in lieu thereof
 2 “retirement age (as defined in section 202 (q) (9))”.

3 (3) Section 223 (a) (1) (B) of such Act is amended
 4 by striking out “the age of sixty-five” and inserting in lieu
 5 thereof “retirement age (as defined in section 202 (q)
 6 (9))”.

7 (c) Section 226 (c) (2) of such Act is amended—

8 (1) by inserting “(A)” immediately before “for
 9 the month in which”; and

10 (2) by inserting before the period at the end thereof
 11 the following: “, or (B) for the month in which he
 12 attains age 65 or any subsequent month prior to the
 13 month in which he attains age 68 if (i) he is a fully
 14 insured individual (as defined in section 214) on the first
 15 day of such month, and (ii) he files a request for
 16 entitlement to hospital insurance benefits (in such man-
 17 ner and form as the Secretary shall prescribe) before
 18 the close of such month”.

19 INCREASE IN OLD-AGE BENEFIT AMOUNTS FOR
 20 DELAYED RETIREMENT

21 SEC. 204. Section 202 (w) (1) of the Social Security
 22 Act is amended—

23 (1) by striking out “If the first month” and all
 24 that follows down through “to such individual” in the

1 matter preceding subparagraph (A) and inserting in
2 lieu thereof "The amount of an old-age insurance benefit
3 (other than a benefit based on a primary insurance
4 amount determined under section 215 (a) (3)) which is
5 payable without regard to this subsection to an individ-
6 ual"; and

7 (2) by inserting after "such amount," in subpara-
8 graph (A) the following: "or, in the case of an individ-
9 ual who first becomes eligible for an old-age insurance
10 benefit after December 1978, one-quarter of 1 percent
11 of such amount,".

12 CONFORMING AMENDMENTS

13 SEC. 205. (a) Section 202 (m) (1) of the Social Se-
14 curity Act is amended to read as follows:

15 " (1) In any case in which an individual is entitled to
16 a monthly benefit under this section on the basis of a pri-
17 mary insurance amount computed under section 215 (a) or
18 (d), as in effect after December 1978, on the basis of the
19 wages and self-employment income of a deceased individual
20 for any month and no other person is (without the applica-
21 tion of subsection (j) (1)) entitled to a monthly benefit
22 under this section for that month on the basis of such wages
23 and self-employment income, the individual's benefit amount
24 for that month, prior to reduction under subsection (k) (3),
25 shall not be less than that provided by subparagraph (C)

1 (i) (I) of section 215 (a) (1) and increased under section
2 215 (i) for months after May of the year in which the insured
3 individual died as though such benefit were a primary insur-
4 ance amount.”.

5 (b) Section 202 (w) of such Act (as amended by section
6 203 of this Act) is further amended—

7 (1) by inserting after “section 215 (a) (3)” in
8 paragraph (1) (in the matter preceding subparagraph
9 (A)) the following: “as in effect in December 1978 or
10 section 215 (a) (1) (C) (i) (II) as in effect thereafter”;

11 (2) by inserting “as in effect in December 1978, or
12 section 215 (a) (1) (C) (i) (II) as in effect thereafter,”
13 after “paragraph (3) of section 215 (a)” in paragraph
14 (5); and

15 (3) by inserting “(whether before, in, or after
16 December 1978)” after “determined under section 215
17 (a)” in paragraph (5).

18 (c) Section 217 (b) (1) of such Act is amended by
19 inserting “as in effect in December 1978” after “section 215
20 (c)” each place it appears, and after “section 215 (d)”.

21 (d) Section 224 (a) of such Act is amended by insert-
22 ing “(determined under section 215 (b) as in effect prior to
23 January 1979)” after “(A) the average monthly wage”
24 in the matter following paragraph (8).

1 (e) Section 1839 (c) (3) (B) of such Act is amended
2 to read as follows:

3 “(B) the monthly premium rate most recently
4 promulgated by the Secretary under this paragraph,
5 increased by a percentage determined as follows: The
6 Secretary shall ascertain the primary insurance amount
7 computed under section 215 (a) (1), based upon aver-
8 age indexed monthly earnings of \$900, that applied to
9 individuals who became eligible for and entitled to old-
10 age insurance benefits on May 1 of the year of the
11 promulgation. He shall increase the monthly premium
12 rate by the same percentage by which that primary
13 insurance amount is increased when, by reason of the
14 law in effect at the time the promulgation is made, it
15 is so computed to apply to those individuals on the
16 following May 1.”.

17 (f) Section 215 (a) (3) of such Act is amended by
18 striking out “\$9.00” and inserting in lieu there “\$11.00”,

19 (g) In revising the table of benefits contained in section
20 202 (a) of the Social Security Act for monthly benefits pay-
21 able for months beginning with June 1978 (in accordance
22 with section 215 (i) (2) (D) of such Act as in effect prior to
23 the enactment of this Act), the Secretary shall (not with-
24 standing the provisions contained in such section 215 (i)
25 (2) (D)) continue without change the figures in the first

1 line of such table as they were in such table as it was in
2 effect in December 1977.

3 **EFFECTIVE DATE**

4 **SEC. 206.** The amendments made by the provisions of
5 this title other than sections 201 (d), 205 (f), and 205 (g)
6 shall be effective with respect to monthly benefits and lump-
7 sum death payments under title II of the Social Security
8 Act payable for months after December 1978. The amend-
9 ments made by section 201 (d) shall be effective with re-
10 spect to monthly benefits of an individual who becomes eligi-
11 ble for an old-age or disability insurance benefit, or dies,
12 after December 1977. The amendments made by sections
13 205 (f) and 205 (g) shall be effective with respect to
14 monthly benefits payable for months after December 1977.

15 **TITLE III—WORKING SPOUSE'S BENEFIT AND**
16 **ELIMINATION OF GENDER-BASED DISTINC-**
17 **TIONS UNDER THE OLD-AGE, SURVIVORS,**
18 **AND DISABILITY INSURANCE PROGRAM**

19 **PART A—WORKING SPOUSE'S BENEFITS; OFFSET FOR**
20 **GOVERNMENTAL PENSIONS**

21 **WORKING SPOUSE'S BENEFITS**

22 **SEC. 301. (a)** Section 202 of the Social Security Act is
23 amended by adding at the end thereof the following new
24 subsection:

1 “Working Spouse’s Benefits

2 “(x) (1) If an individual is entitled for any month both
3 to a benefit under subsection (a) of this section or under
4 section 223 and to a benefit under subsection (b), (c), (e),
5 (f), or (g) of this section (with the latter benefit being
6 reduced under subsection (k) (3)), such individual shall
7 also be entitled (subject to paragraph (3)) to a working
8 spouse’s benefit for such month.

9 “(2) (A) Such working spouse’s benefit for any month
10 shall be equal to 25 percent of the amount (determined
11 without regard to subsection (k) (3)) of whichever of the
12 two benefits referred to in paragraph (1) is smaller (after
13 any reductions under subsection (k), subsection (q), sub-
14 section (e) (2) or (f) (3), and section 203 (a)), except
15 that such benefit may not be greater than the difference be-
16 tween the larger of the two other benefits involved (after
17 any such reductions) and the maximum primary insurance
18 amount which would be payable to such individual if she or
19 he had had the maximum creditable amount of wages and
20 self-employment income in each year after 1950 and prior
21 to the first year in which she or he was first entitled to both
22 such benefits.

23 “(B) The working spouse’s benefit to which any indi-
24 vidual is entitled under this subsection shall be paid to such

1 individual along with or as a part of the larger benefit
2 referred to in subparagraph (A).

3 “(3) Only one member of a married couple shall be en-
4 titled to a working spouse’s benefit for any month on the
5 basis of the same wages and self-employment income. If both
6 spouses would (but for the preceding sentence) be entitled
7 to such a benefit for any month, the spouse entitled to such
8 benefit shall be the one whose entitlement would result in
9 the receipt by the two spouses of the greatest total amount
10 of benefits for that month.

11 “(4) If any individual referred to in paragraph (1) is
12 entitled for any month (in addition to his or her old-age
13 or disability insurance benefit) to two or more benefits under
14 subsections (b), (c), (e), (f), and (g), subsection (k) (2)
15 shall be applied with respect to such benefits before para-
16 graph (2) (A) of this subsection is applied.”

17 (b) (1) Section 202 (j) (1) of such Act is amended by
18 striking out “or (h)” and inserting in lieu thereof “(h),
19 or (x)”.

20 (2) Section 202 (k) of such Act is amended by adding
21 at the end thereof the following new paragraph:

22 “(5) A working spouse’s benefit to which an individual
23 is determined to be entitled under subsection (x) shall not

1 be treated as a monthly insurance benefit for purposes of
2 paragraph (2) (B) or (3) of this subsection.”.

3 (c) The amendments made by this section shall apply
4 with respect to months after December 1978.

5 OFFSET FOR GOVERNMENTAL PENSIONS

6 SEC. 302. (a) Section 202 of the Social Security Act
7 (as amended by section 301 of this Act) is further amended
8 by adding at the end thereof the following new subsection:

9 “Offset for Governmental Pensions

10 “(y) (1) For purposes of subsections (b) (1), (c) (1),
11 (e) (1), (f) (1), (g) (1), and (h) (1) of this section,
12 any individual who is entitled to a governmental pension
13 for any month shall be deemed to be entitled to an old-age
14 or disability insurance benefit for such month in an amount
15 equal to the amount of such pension (and, if such individ-
16 ual is entitled to an old-age or disability insurance benefit
17 for such month without regard to this subsection, such
18 benefit shall be deemed to be increased by the amount of
19 such pension).

20 “(2) As used in paragraph (1), the term ‘govern-
21 mental pension’ means any pension, annuity, or similar
22 periodic benefit which is based on service performed as an
23 employee of the United States or any agency or instru-
24 mentality thereof or as an employee of one or more States

1 or political subdivisions or any agency or instrumentality
2 thereof, or on any combination of such service.”.

3 (b) The amendment made by subsection (a) shall
4 apply with respect to months after December 1978.

5 PART B—EQUALIZATION OF TREATMENT OF MEN AND
6 WOMEN UNDER THE PROGRAM

7 DIVORCED HUSBANDS

8 SEC. 311. (a) (1) Section 202(c) (1) of the Social
9 Security Act is amended, in the matter preceding subpara-
10 graph (A), by inserting “and every divorced husband (as
11 defined in section 216(d))” before “of an individual” and
12 inserting “or such divorced husband” after “if such hus-
13 band”.

14 (2) Section 202(c) (1) of such Act is further
15 amended—

16 (A) by redesignating subparagraphs (C) and (D)
17 as subparagraphs (D) and (E), and by inserting after
18 subparagraph (B) the following new subparagraph:

19 “(C) in the case of a divorced husband, is not
20 married,”;

21 (B) by striking out “after August 1950” in the
22 matter following subparagraph (E) (as so redesign-
23 nated); and

24 (C) by striking out “the month in which any of

1 the following occurs:" and all that follows and insert-
2 ing in lieu thereof the following:

3 "the first month in which any of the following occurs:

4 "(F) he dies,

5 "(G) such individual dies,

6 "(H) in the case of a husband, they are divorced
7 and either (i) he has not attained age 62, or (ii) he
8 has attained age 62 but has not been married to such
9 individual for a period of 20 years immediately before
10 the divorce became effective,

11 "(I) in the case of a divorced husband, he marries
12 a person other than such individual,

13 "(J) he becomes entitled to an old-age or dis-
14 ability insurance benefit based on a primary insurance
15 amount which is equal to or exceeds one-half of the
16 primary insurance amount of such individual, or

17 "(K) such individual is not entitled to disability
18 insurance benefits and is not entitled to old-age insur-
19 ance benefits."

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

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

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

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

5 “(B) an individual who has attained the age
6 of 18 and is entitled to benefits under subsection
7 (d),

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

12 (5) Section 202 (c) (2) of such Act is amended by
13 striking out “(C)” in the matter immediately preceding
14 subparagraph (A) and inserting in lieu thereof “(D)”.

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

18 (7) Section 202 (c) (1) (E) of such Act (as re-
19 designated by paragraph (2) of this subsection) is amended
20 by striking out “his wife” and inserting in lieu thereof
21 “such individual”.

22 (b) (1) Section 202 (f) (1) of such Act is amended,
23 in the matter preceding subparagraph (A), by inserting
24 “and every surviving divorced husband (as defined in section

1 216 (d))” before “of an individual” and inserting “or such
2 surviving divorced husband” after “if such widower”.

3 (2) Section 202 (f) (1) of such Act is further amended
4 by striking out “his deceased wife” in subparagraph (E)
5 and in the matter following subparagraph (G) and insert-
6 ing in lieu thereof “such deceased individual”.

7 (3) Paragraphs (3), (4), (6), and (7) of section 202
8 (f) of such Act are each amended by inserting “or surviving
9 divorced husband” after “widower” wherever it appears.

10 (4) Paragraph (3) of section 202 (f) of such Act is
11 further amended by striking out “his deceased wife” wherever
12 it appears and by inserting in lieu thereof “such deceased
13 individual”, and by striking out “wife” wherever it appears
14 and inserting in lieu thereof “individual”.

15 (5) Section 202 (f) (4) of such Act is further amended
16 by striking out “remarries” and inserting in lieu thereof
17 “marries”, and by inserting “or surviving divorced hus-
18 band’s” after “widower’s”.

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

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

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

1 (c) (1) Section 216(d) of such Act is amended by re-
2 designating paragraph (4) as paragraph (6), and by insert-
3 ing after paragraph (3) the following new paragraphs:

4 “(4) The term ‘divorced husband’ means a man di-
5 vorced from an individual, but only if he has been married
6 to such individual for a period of 20 years immediately
7 before the date the divorce became effective.

8 “(5) The term ‘surviving divorced husband’ means a
9 man divorced from an individual who has died, but only if he
10 has been married to the individual for a period of 20 years
11 immediately before the divorce became effective.”.

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

14 “Divorced Spouses; Divorce”.

15 (d) (1) Section 205(b) of such Act is amended by
16 inserting “divorced husband,” after “husband,” and “surviv-
17 ing divorced husband,” after “widower,”.

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

20 **REMARriage OF SURVIVING SPOUSE BEFORE AGE 60**

21 **SEC. 312.** Section 202(f) (1) (A) of the Social Secu-
22 rity Act is amended by striking out “has not remarried” and
23 inserting in lieu thereof “is not married”.

ILLEGITIMATE CHILDREN

1
2 SEC. 313. (a) Section 216 (h) (3) of the Social Security Act is amended by inserting “mother or” before “father”
3 wherever it appears.
4

5 (b) Section 216 (h) (3) (A) (i) of such Act is amended
6 by striking out “daughter,” at the end of clause (III) and
7 all that follows and inserting in lieu thereof “daughter; or”.

8 (c) Section 216 (h) (3) (A) (ii) of such Act is amended
9 by striking out everything after “time” and inserting in lieu
10 thereof “such applicant’s application for benefits was filed;”.

11 (d) Section 216 (h) (3) (B) (i) of such Act is amended
12 by striking out “daughter,” at the end of clause (III) and all
13 that follows and inserting in lieu thereof “daughter; or”.

14 (e) Section 216 (h) (3) (B) (ii) of such Act is amended
15 by striking out “such period of disability began” and insert-
16 ing in lieu thereof “such applicant’s application for benefits
17 was filed”.

TRANSITIONAL INSURED STATUS

18
19 SEC. 314. (a) Section 227 (a) of the Social Security
20 Act is amended—

21 (1) by striking out “wife” wherever it appears and
22 inserting in lieu thereof “spouse”;

23 (2) by striking out “wife’s” wherever it appears
24 and inserting in lieu thereof “spouse’s”;

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

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

5 (5) by inserting “or section 202 (c)” after “sec-
6 tion 202 (b)” wherever it appears.

7 (b) Section 227 (b) and section 227 (c) of such Act
8 are amended—

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

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

13 (3) by striking out “her” wherever it appears and
14 inserting in lieu thereof “the”; and

15 (4) by inserting “or section 202 (f)” after “section
16 202 (e)” wherever it appears.

17 (c) Section 216 of such Act (as amended by the pre-
18 ceding provisions of this Act) is further amended by in-
19 serting before subsection (b) the following new subsection:

20 “Spouse; Surviving Spouse

21 “(a) (1) The term ‘spouse’ means a wife as defined
22 in subsection (b) or a husband as defined in subsection (f).

23 “(2) The term ‘surviving spouse’ means a widow as

1 defined in subsection (c) or a widower as defined in sub-
2 section (g).”.

3 EQUALIZATION OF BENEFITS UNDER SECTION 228

4 SEC. 315. (a) Section 228 (b) (2) of the Social Secu-
5 rity Act is amended—

6 (1) by striking out “the husband’s benefit” and
7 inserting in lieu thereof “each of their benefits”;

8 (2) by striking out “\$64.40” and inserting in lieu
9 thereof “\$48.30”; and

10 (3) by striking out everything after “section
11 215 (i)” the first time it appears and inserting in lieu
12 thereof a period.

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

15 “(3) In the case of a husband or wife, both of whom
16 are entitled to benefits under this section for any month, the
17 benefit amount of each, after any reduction under paragraph
18 (1), shall be further reduced (but not below zero) by the
19 excess (if any) of (A) the total amount of any periodic
20 benefits under governmental pension systems for which the
21 other is eligible for such month, over (B) the larger of
22 \$48.30 or the amount most recently established in lieu
23 thereof under section 215 (i).”.

24 (c) The Secretary shall increase the amounts specified
25 in section 228 of the Social Security Act, as amended by

1 this section, to take account of any general benefit increases
2 (as referred to in section 215 (i) (3) of such Act), and any
3 increases under section 215 (i) of such Act, which occur
4 after June 1974.

5 FATHER'S INSURANCE BENEFITS

6 SEC. 316. (a) Section 202 (g) of the Social Security
7 Act is amended—

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

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

12 (3) by striking out “wife's insurance benefits” in
13 paragraph (1) (D) and inserting in lieu thereof “a
14 spouse's insurance benefit”;

15 (4) by striking out “he” in paragraph (1) (D)
16 and wherever it appears in paragraph (3) and inserting
17 in lieu thereof “such individual”;

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

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

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

24 (8) by inserting “or father's” after “mother's”
25 Wherever it appears;

1 (9) by striking out “after August 1950”;

2 (10) by inserting “this subsection or” before “sub-
3 section (a)” in paragraph (3) (A); and

4 (11) by striking out “his” in paragraph (3) and
5 inserting in lieu thereof “his or her”.

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

8 (c) Section 216 (d) of such Act (as amended by sec-
9 tion 401 (c) (1) of this Act) is further amended by re-
10 designating paragraph (6) as paragraph (8), and by in-
11 serting after paragraph (5) the following new paragraphs:

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

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

25 (d) Section 202 (c) (1) of such Act (as amended by

1 section 311 (a) (2) of this Act) is further amended by in-
2 serting “(subject to subsection (s))” before “be entitled
3 to” in the matter following subparagraph (E). and pre-
4 ceding subparagraph (F).

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

11 (f) Section 202 (c) (1) of such Act (as amended by
12 section 311 (a) (2) (C) of this Act) is further amended by
13 redesignating the new subparagraphs (J) and (K) as sub-
14 paragraphs (K) and (L), respectively, and by adding after
15 subparagraph (I) the following new subparagraph:

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

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

22 “(ii) was entitled, on the basis of such wages and
23 self-employment income, to father’s insurance benefits for
24 the month preceding the month in which he attained age
25 65.”.

1 (h) Section 202 (f) (6) of such Act is amended by
 2 striking out "or" at the end subparagraph (A), by adding
 3 "or" after the comma at the end of subparagraph (B), and
 4 by adding after and below subparagraph (B) the following
 5 new subparagraph:

6 " (C) the last month for which he was entitled to
 7 father's insurance benefits on the basis of the wages and
 8 self-employment income of such individual,".

9 EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY

10 BENEFICIARY

11 SEC. 317. (a) Section 202 (d) (5) of the Social Secu-
 12 rity Act is amended by striking out "a male individual" in
 13 the matter following subparagraph (B) and inserting in
 14 lieu thereof "an individual".

15 (b) The amendment made by subsection (a) of this
 16 section shall be effective with respect to benefits under title
 17 II of the Social Security Act for months after December
 18 1977, but only in cases where the "last month" referred to
 19 in section 202 (d) (5) of such Act is a month after December
 20 1977.

21 EFFECT OF MARRIAGE ON OTHER DEPENDENTS' OR

22 DEPENDENT SURVIVORS' BENEFITS

23 SEC. 318. (a) Section 202 (c) (4) of the Social Secu-
 24 rity Act (as added by section 311 (a) (4) of this Act) is
 25 further amended by inserting before the period at the end

1 thereof the following: “; except that, in the case of such a
2 marriage to an individual entitled to benefits under subsec-
3 tion (d), the preceding provisions of this paragraph shall not
4 apply with respect to benefits for months after the last month
5 for which such individual is entitled to such benefits under
6 subsection (d) unless she ceases to be so entitled by reason
7 of her death”.

8 (b) Section 202 (f) (4) of such Act is amended by in-
9 serting before the period at the end thereof the following:
10 “; except that, in the case of such a marriage to an individual
11 entitled to benefits under subsection (d), the preceding pro-
12 visions of this paragraph shall not apply with respect to
13 benefits for months after the last month for which such
14 individual is entitled to such benefits under subsection (d)
15 unless she ceases to be so entitled by reason of her death”.

16 (c) Section 202 (h) (4) of such Act is amended by
17 striking out “a male individual” in the matter following
18 clause (B) and inserting in lieu thereof “an individual”.

19 (d) The amendments made by this section shall be
20 effective with respect to benefits under title II of the Social
21 Security Act for months after December 1977, but only in
22 cases where the “last month” referred to in section 202 (c)
23 (4), 202 (f) (4), 202 (g) (3), or 202 (h) (4) is a month
24 after December 1977.

1 TREATMENT OF SELF-EMPLOYMENT INCOME IN
2 COMMUNITY PROPERTY STATES

3 SEC. 319. (a) Section 211 (a) (5) (A) of the Social
4 Security Act and section 1402 (a) (5) (A) of the Internal
5 Revenue Code of 1954 are each amended by striking out
6 "husband unless the wife exercises substantially all of the
7 management and control of such trade or business, in which
8 case all of such gross income and deductions shall be treated
9 as the gross income and deductions of the wife" and inserting
10 in lieu thereof "spouse who exercises the greater manage-
11 ment and control over the trade or business, except that such
12 income and deductions shall be divided equally between the
13 two spouses if each spouse exercises the same amount of
14 management and control over the trade or business".

15 (b) The amendments made by subsection (a) shall be
16 effective with respect to taxable years beginning after De-
17 cember 1977.

18 CREDIT FOR CERTAIN MILITARY SERVICE

19 SEC. 320. Section 217 (f) of the Social Security Act
20 is amended by striking out "widow" each place it appears
21 and inserting in lieu thereof "surviving spouse", and by
22 striking out "her" each place it appears in paragraph (2)
23 and inserting in lieu thereof "his".

CONFORMING AMENDMENTS

1
2 SEC. 321. (a) Section 202 (b) (3) (A) of the Social
3 Security Act (as amended by section 311 (a) (6) of this
4 Act) is further amended by inserting “(g),” after “(f),”.

5 (b) Section 202 (p) (1) of such Act is amended by
6 striking out “subparagraph (C) of subsection (c) (1)”
7 and inserting in lieu thereof “subparagraph (D) of sub-
8 section (c) (1)”.

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

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

13 (1) by inserting “husband’s or” before “wife’s”
14 each place it appears;

15 (2) by inserting “he or” before “she” each place
16 it appears;

17 (3) by inserting “his or” before “her” each place
18 it appears;

19 (4) by striking out “the woman” in subparagraph
20 (B) (ii) and “a woman” in subparagraph (C) and
21 inserting in lieu thereof “the individual” and “an indi-
22 vidual”, respectively; and

23 (5) in subparagraph (D), by inserting “widower’s

1 or" before "widow's"; by inserting "wife or" before
2 "husband" each place it appears; by inserting "wife's
3 or" before "husband's" each place it appears; and by
4 inserting "father's or" before "mother's".

5 (e) (1) Section 202 (q) (6) (A) (i) of such Act is
6 amended by striking out "or husband's insurance" in sub-
7 division (I), and by inserting "or husband's" after "wife's"
8 in subdivision (II).

9 (2) Section 202 (q) (7) of such Act is amended, in
10 subparagraph (B), by inserting "husband's or" before
11 "wife's", by inserting "he or" before "she", and by insert-
12 ing "his or" before "her", and in subparagraph (D) by
13 inserting "or widower's" after "widow's".

14 (f) (1) Section 202 (s) (1) of such Act is amended
15 by inserting "(c) (1)," after "(b) (1),".

16 (2) Section 202 (s) (2) of such Act is amended by
17 inserting "(c) (4)," after "(b) (3),".

18 (3) Section 202 (s) (3) of such Act is amended by
19 inserting "(c) (4)," after "(b) (3),", and by inserting
20 "(f) (4)," after "(e) (3),".

21 (g) Section 203 (a) (3) of such Act (as in effect in
22 December 1977) is amended by inserting ", or as a divorced
23 husband under section 202 (c) or as a surviving divorced
24 husband under section 202 (f)," after "section 202 (e)",
25 by striking out "she" and inserting in lieu thereof "he or

1 she", and by inserting "or divorced husband or surviving
2 divorced husband" after "such divorced wife or surviving
3 divorced wife".

4 (h) The third sentence of section 203 (b) of such Act
5 is amended by inserting "or father's" after "mother's".

6 (i) The text of section 203 (c) of such Act is amended
7 to read as follows—

8 " (c) Deductions, in such amounts and at such time or
9 times as the Secretary shall determine, shall be made from
10 any payment or payments under this title to which an indi-
11 vidual is entitled, until the total of such deductions equals
12 such individual's benefits or benefit under section 202 for
13 any month—

14 " (1) in which such individual is under the age of
15 seventy-two and on seven or more different calendar
16 days of which such individual engaged in noncovered
17 remunerative activity outside the United States; or

18 " (2) in which such individual, if a wife or husband
19 under age sixty-five entitled to a wife's or husband's
20 insurance benefit, did not have in his or her care (indi-
21 vidualy or jointly with his or her spouse) a child of such
22 spouse entitled to a child's insurance benefit and such
23 wife's or husband's insurance benefit for such month was
24 not reduced under the provisions of section 202 (q) ; or

25 " (3) in which such individual, if a widow or wid-

1 ower entitled to a mother's or father's insurance benefit,
2 did not have in his or her care a child of his or her de-
3 ceased spouse entitled to a child's insurance benefit; or
4 “(4) in which such an individual, if a surviving
5 divorced mother or father entitled to a mother's or
6 father's insurance benefit, did not have in his or her care
7 a child of his deceased former spouse who (A) is his or
8 her son, daughter, or legally adopted child and (B) is
9 entitled to a child's insurance benefit on the basis of the
10 wages and self-employment income of such deceased
11 former spouse.

12 For purposes of paragraphs (2), (3), and (4) of this sub-
13 section, a child shall not be considered to be entitled to a
14 child's insurance benefit for any month in which paragraph
15 (1) of section 202 (s) applies or an event specified in sec-
16 tion 222 (b) occurs with respect to such child. Subject to
17 paragraph (3) of such section 202 (s), no deductions shall
18 be made under this subsection from any child's insurance
19 benefit for the month in which the child entitled to such
20 benefit attained the age of eighteen or any subsequent month;
21 nor shall any deduction be made under this subsection from
22 any widow's insurance benefits for any month in which the
23 widow or surviving divorced wife is entitled and has not
24 attained age sixty-five (but only if she became so entitled
25 prior to attaining age sixty), or from any widower's insur-

1 ance benefit for any month in which the widower or surviv-
2 ing divorced husband is entitled and has not attained age
3 sixty-five (but only if he became so entitled prior to attain-
4 ing age sixty).”.

5 (j) Section 203 (d) of such Act is amended by inserting
6 “divorced husband,” after “husband,” in paragraph (1),
7 and by inserting “or father’s” after “mother’s” each place it
8 appears in paragraph (2).

9 (k) (1) Section 205 (b) of such Act (as amended by
10 section 311 (d) (1) of this Act) is further amended by
11 inserting “surviving divorced father,” after “mother,”.

12 (2) Section 205 (c) (1) (C) of such Act (as amended
13 by section 311 (d) (2) of this Act) is further amended by
14 inserting “surviving divorced father,” after “surviving
15 divorced mother,”.

16 (l) Section 216 (f) of such Act is amended by inserting
17 “(c),” before “(f)” in clause (3) (A).

18 (m) Section 216 (g) of such Act is amended by insert-
19 ing “(c),” before “(f)” in clause (6) (A).

20 (n) Section 222 (b) (1) of such Act is amended by
21 striking out “or surviving divorced wife” and inserting in
22 lieu thereof, “surviving divorced wife, or surviving divorced
23 husband”.

24 (o) Section 222 (b) (3) of such Act is amended by
25 inserting “divorced husband,” after “husband,”.

1 (p) Section 222 (b) (2) of such Act is amended by
2 inserting "or father's" after "mother's" each place it appears.

3 (q) Section 222 (d) (1) of such Act is amended by
4 inserting "and surviving divorced husbands" after "for
5 widowers" in the matter following clause (iii).

6 (r) Section 223 (d) (2) of such Act is amended by
7 striking out "or widower" where that term appears in sub-
8 paragraphs (A) and (B) and inserting in lieu thereof
9 "widower, or surviving divorced husband".

10 (s) Section 225 of such Act is amended by inserting "or
11 surviving divorced husband" after "widower".

12 (t) (1) Section 226 (h) (3) of such Act is amended to
13 read as follows:

14 "(3) For purposes of determining entitlement to hos-
15 pital insurance benefits under subsection (b), any disabled
16 widow age 50 or older who is entitled to mother's insurance
17 benefits (and who would have been entitled to widow's
18 insurance benefits by reason of disability if she had filed
19 for such widow's benefits), and any disabled widower who
20 is entitled to father's insurance benefits (and who would
21 have been entitled to widower's insurance benefits by reason
22 of disability if he had filed for such widower's benefits),
23 shall, upon application for such hospital insurance bene-
24 fits, be deemed to have filed for such widow's or widower's
25 benefits."

1 (2) For purposes of determining entitlement to hospital
 2 insurance benefits under section 226 (h) (3) of the Social
 3 Security Act, as amended by paragraph (1) of this subsec-
 4 tion, an individual becoming entitled to such hospital insur-
 5 ance benefits as a result of the amendment made by such
 6 paragraph shall, upon furnishing proof of such disability
 7 within twelve months after the month of enactment of this
 8 Act, under such procedures as the Secretary may prescribe,
 9 be deemed to have been entitled to the widow's or widower's
 10 benefits referred to in such section 226 (h) (3), as so
 11 amended, as of the time such individual would have been
 12 entitled to such widow's or widower's benefits if he or she
 13 had filed a timely application therefor.

14 EFFECTIVE DATE

15 SEC. 322. Except as otherwise specifically provided in
 16 this part, the amendments made by this part shall apply only
 17 with respect to monthly benefits payable under title II of the
 18 Social Security Act for months after December 1977.

19 PART C—EFFECT OF MARRIAGE, REMARRIAGE, AND

20 TERMINATING OR REDUCING BENEFITS

21 ELIMINATION OF MARRIAGE OR REMARRIAGE AS FACTOR

22 TERMINATING OR REDUCING BENEFITS

23 SEC. 331. (a) (1) Section 202 (b) (1) of the Social
 24 Security Act is amended—

1 (A) by adding “and” at the end of subparagraph
2 (B),
3 (B) by striking out subparagraph (C),
4 (C) by striking out subparagraph (H), and
5 (D) by redesignating subparagraphs (D), (E),
6 (F), (G), (I), (J), and (K) as subparagraphs (C),
7 (D), (E), (F), (G), (H), and (I), respectively.

8 (2) Section 202 (b) of such Act is further amended by
9 striking out paragraph (3).

10 (b) (1) Section 202 (c) (1) of such Act (as amended
11 by sections 311 (a) (2) and 316 (f) of this Act) is
12 amended—

13 (A) by striking out subparagraph (C),
14 (B) by striking out subparagraph (I), and
15 (C) by redesignating subparagraphs (D), (E),
16 (F), (G), (H), (J), (K), and (L) as subparagraphs
17 (C), (D), (E), (F), (G), (H), (I), and (J),
18 respectively.

19 (2) Section 202 (c) of such Act is further amended by
20 striking out paragraph (4) (as added by section 311 (a)
21 (4) of this Act and amended by section 318 (a)).

22 (3) Section 202 (c) (2) of such Act (as amended by
23 section 311 (a) (5) of this Act) is further amended by
24 striking out “(D)” in the matter immediately preceding
25 subparagraph (A) and inserting in lieu thereof “(C)”.

1 (c) (1) Section 202 (d) (1) of such Act is amended—

2 (A) by striking out “was unmarried and” in sub-
3 paragraph (B), and

4 (B) by striking out “or marries,” in subparagraph
5 (D).

6 (2) Section 202 (d) of such Act is further amended by
7 striking out paragraph (5), and by redesignating paragraphs
8 (6) through (9) as paragraphs (5) through (8), respec-
9 tively.

10 (d) (1) Section 202 (e) (1) of such Act is amended—

11 (A) by striking out subparagraph (A),

12 (B) by striking out “paragraph (5)” in subpara-
13 graph (B) and inserting in lieu thereof “paragraph
14 (3)”,

15 (C) by striking out “subparagraph (B)” in sub-
16 paragraph (E) and inserting in lieu thereof “subpara-
17 graph (A)”,

18 (D) by striking out “subparagraph (B)”, “para-
19 graph (6)”, and “paragraph (5)” in subparagraph
20 (F) and inserting in lieu thereof “subparagraph (A)”,
21 “paragraph (4)”, and “paragraph (3)”, respectively,

22 (E) by striking out “remarries, dies,” in the matter
23 following subparagraph (F) and inserting in lieu thereof
24 “dies, or”, and

1 (F) by redesignating subparagraphs (B) through
2 (F) as subparagraphs (A) through (E), respectively.

3 (2) Section 202 (e) (2) (A) of such Act is amended by
4 striking out “, paragraph (4) of this subsection,”.

5 (3) Section 202 (e) of such Act is further amended by
6 striking out paragraphs (3) and (4), and by redesignating
7 paragraphs (5), (6), and (7) as paragraphs (3), (4), and
8 (5), respectively.

9 (4) The paragraph of section 202 (e) of such Act re-
10 designated as paragraph (3) by paragraph (3) of this sub-
11 section is amended by striking out “(1) (B) (ii)” and in-
12 serting in lieu thereof “(1) (A) (ii)”.

13 (5) The paragraph of section 202 (e) of such Act re-
14 designated as paragraph (4) by paragraph (3) of this sub-
15 section is amended—

16 (A) by striking out “paragraph (1) (F)” and in-
17 serting in lieu thereof “paragraph (1) (E)”, and

18 (B) by striking out “paragraph (5)” and inserting
19 in lieu thereof “paragraph (3)”.

20 (e) (1) Section 202 (f) (1) of such Act (as amended
21 by the preceding provisions of this title) is further
22 amended—

23 (A) by striking out subparagraph (A),

24 (B) by striking out “paragraph (6)” in subpara-

1 graph (B) and inserting in lieu thereof "paragraph
2 (4)",

3 (C) by striking out "subparagraph (B)" in sub-
4 paragraph (F) and inserting in lieu thereof "subpara-
5 graph (A)",

6 (D) by striking out "subparagraph (B)", "para-
7 graph (7)", and "paragraph (6)" in subparagraph
8 (G) and inserting in lieu thereof "subparagraph (A)",
9 "paragraph (5)", and "paragraph (4)", respectively,

10 (E) by striking out "remarries," in the matter fol-
11 lowing subparagraph (G), and

12 (F) by redesignating subparagraphs (B) through
13 (G) as subparagraphs (A) through (F), respectively.

14 (2) Section 202 (f) (2) of such Act is amended by
15 striking out "subparagraph (D)" and inserting in lieu
16 thereof "subparagraph (C)".

17 (3) Section 202 (f) (3) (A) of such Act is amended
18 by striking out ", paragraph (5) of this subsection,".

19 (4) Section 202 (f) of such Act is further amended by
20 striking out paragraphs (4) and (5), and by redesignating
21 paragraphs (6), (7), and (8) as paragraphs (4), (5),
22 and (6), respectively.

23 (5) The paragraph of section 202 (f) of such Act
24 redesignated as paragraph (4) by paragraph (4) of this

1 subsection is amended by striking out “(1) (B) (ii)” and
2 inserting in lieu thereof “(1) (A) (ii)”.

3 (6) The paragraph of section 202 (f) of such Act
4 redesignated as paragraph (5) by paragraph (4) of this
5 subsection is amended by striking out “paragraph (1) (G)”
6 and “paragraph (6)” and inserting in lieu thereof “para-
7 graph (1) (F)” and “paragraph (4)”, respectively.

8 (f) (1) Section 202 (g) (1) of such Act (as amended
9 by section 316 (a) of this Act) is further amended—

10 (A) by striking out subparagraph (A),

11 (B) by striking out “subparagraph (E)” in sub-
12 paragraph (F) (i) and inserting in lieu thereof “sub-
13 paragraph (D)”,

14 (C) by striking out “he remarries,” in the matter
15 following subparagraph (F), and

16 (D) by redesignating subparagraphs (B) through
17 (F) as subparagraphs (A) through (E), respectively.

18 (2) Section 202 (g) of such Act is further amended by
19 striking out paragraph (3).

20 (g) (1) Section 202 (h) (1) of such Act is amended—

21 (A) by striking out subparagraph (C),

22 (B) by striking out “marries,” in the matter fol-
23 lowing subparagraph (E), and

24 (C) by redesignating subparagraphs (D) and (E)
25 as subparagraphs (C) and (D), respectively.

1 (2) Section 202 (h) of such Act is further amended by
2 striking out paragraph (4).

3 (h) (1) Section 202 (k) (2) (B) of such Act is
4 amended—

5 (A) by striking out “(other than an individual
6 to whom subsection (e) (4) or (f) (5) applies)”, and

7 (B) by striking out the second sentence.

8 (2) Section 202 (k) (3) of such Act is amended—

9 (A) by striking out “(A)” immediately before “If
10 an individual is entitled to an old-age or disability
11 insurance benefit”, and

12 (B) by striking out subparagraph (B).

13 (i) Section 202 (p) (1) of such Act (as amended
14 by section 321 (b) of this Act) is further amended by
15 striking out “subparagraph (D) of subsection (c) (1);
16 clause (i) or (ii) of subparagraph (D) of subsection (f)
17 (1)” and inserting in lieu thereof “subparagraph (C) of
18 subsection (c) (1), clause (i) or (ii) of subparagraph (C)
19 of subsection (f) (1)”.

20 (j) (1) Section 202 (s) (2) of such Act is repealed.

21 (2) Section 202 (s) (3) of such Act (as amended by
22 section 321 (f) (3) of this Act) is further amended by
23 striking out “so much of subsections (b) (3), (c) (4),
24 (d) (5), (e) (3), (f) (4), (g) (3), and (h) (4) of this
25 section as follows the semicolon,”.

1 DURATION-OF-MARRIAGE REQUIREMENT FOR DIVORCED
2 SPOUSES AND SURVIVING DIVORCED SPOUSES

3 SEC. 332. (a) Section 216(d) of the Social Security
4 Act is amended by striking out "20 years" in paragraphs
5 (1) and (2), and in paragraphs (4) and (5) (as added by
6 section 311(c)(1) of this Act), and inserting in lieu thereof
7 in each instance "5 years".

8 (b) Section 202(b)(1)(F) of such Act (as redesignig-
9 nated by section 331(a)(1)(D) of this Act) is amended
10 by striking out "20 years" and inserting in lieu thereof
11 "5 years".

12 (c) Section 202(c)(1)(G) of such Act (as added by
13 section 311(a)(2)(C) of this Act and redesignated by
14 section 331(b)(1)(C)) is amended by striking out "20
15 years" and inserting in lieu thereof "5 years".

16 EFFECTIVE DATE

17 SEC. 333. (a) The amendments made by this part shall
18 apply only with respect to monthly benefits payable under
19 title II of the Social Security Act for months after December
20 1978, and, in the case of individuals who are not entitled
21 to benefits of the type involved under such title for December
22 1978, only on the basis of applications filed on or after
23 January 1, 1979.

24 (b) An individual whose entitlement to monthly in-
25 surance benefits under subsection (b), (c), (d), (e), (f),

1 (g), or (h) of section 202 of the Social Security Act
2 terminated on account of such individual's marriage or re-
3 marriage, or on account of the termination (except by reason
4 of death) of the benefits to which such individual's spouse
5 was entitled under section 223 (a) or section 202 (d) (1) (B)
6 (ii) of such Act, prior to January 1979, may again become
7 entitled to such benefits (provided no event which would
8 otherwise terminate such entitlement has since occurred)
9 beginning with January 1979 or, if later, with the first month
10 (after January 1979) in which he files application for such
11 reentitlement. The reentitlement of such individual to benefits
12 under such subsection (and the entitlement of other persons
13 to benefits under title II of the Social Security Act to the
14 extent related to such individual or his entitlement) shall
15 be treated for all the purposes of title II of the Social Security
16 Act as though such reentitlement were the individual's initial
17 entitlement.

18 TITLE IV—COVERAGE UNDER THE OLD-AGE,
19 SURVIVORS, AND DISABILITY INSURANCE
20 PROGRAM

21 COVERAGE OF FEDERAL EMPLOYEES

22 SEC. 401. (a) (1) Section 210 (a) of the Social Secu-
23 rity Act is amended by striking out paragraphs (5) and
24 (6).

1 (2) (A) Section 210 (l) (1) of such Act is amended to
2 read as follows:

3 “(1) Except as provided in paragraph (4), the term
4 ‘employment’ shall include service (other than service per-
5 formed while on leave without pay) which is performed by
6 an individual as a member of a uniformed service on active
7 duty after December 1956.”.

8 (B) Section 210 (o) of such Act is amended by striking
9 out “, notwithstanding the provisions of subsection (a),”.

10 (C) Section 229 (a) of such Act is amended by striking
11 out “service as a member of a uniformed service (as defined
12 in section 210 (m)) which was included in the term ‘employ-
13 ment’ as defined in section 210 (a) as a result of the provi-
14 sions of section 10 (l) ” and inserting in lieu thereof “service,
15 as a member of a uniformed service, to which the provisions
16 of section 210 (l) (1) are applicable”.

17 (b) (1) Section 3121 (b) of the Internal Revenue Code
18 of 1954 (relating to definition of employment) is amended
19 by striking out paragraphs (5) and (6) .

20 (2) (A) Section 3121 (m) (1) of such Code (relating
21 to service in the uniformed services) is amended to read as
22 follows:

23 “(1) **INCLUSION OF SERVICE.**—The term ‘employ-
24 ment’ shall include service (other than service performed
25 while on leave without pay) which is performed by an

1 individual as a member of a uniformed service on active
2 duty after December 1956.”.

3 (B) Section 3121 (p) of such Code (relating to Peace
4 Corps volunteer service) is amended by striking out “, not-
5 withstanding the provisions of subsection (b) of this
6 section,”.

7 (c) The amendments made by this section shall be effec-
8 tive with respect to service performed after December 1981.

9 (d) (1) As soon as possible after the enactment of this
10 Act, the Secretary of Health, Education, and Welfare in
11 consultation with the Civil Service Commission shall under-
12 take and carry out a detailed study of how best to coordi-
13 nate the benefits of the civil service retirement system and
14 the benefits of the old-age, survivors, and disability insur-
15 ance system, with the objective of developing for Federal
16 employees a combined program of retirement, disability, and
17 related benefits which will assure that such employees are no
18 worse off, comparing their benefits under the combined pro-
19 gram with the benefits they would receive under the Federal
20 staff retirement systems then in effect, upon their coverage
21 under the old-age, survivors, and disability insurance system
22 pursuant to the amendments made by this section.

23 (2) Upon the completion of the study under paragraph
24 (1) and in any event no later than January 1, 1980, the
25 Secretary shall submit to the Congress a full and complete

1 report on the results of such study together with a specific
2 and detailed plan for coordinating the benefits of the civil
3 service retirement system and the benefits of the old-age, sur-
4 vivors, and disability insurance system (along with such
5 comments or recommendations as may be appropriate with
6 respect to other staff retirement systems covering Federal
7 employees). The plan so submitted shall include such fi-
8 nancing and benefit provisions and other features as may be
9 necessary to assure that the employees involved will not be
10 placed at a disadvantage by the coordination of the benefits
11 of the systems as compared with their treatment under the
12 Federal staff retirement systems in effect prior to such
13 coordination.

14 (e) In addition to and along with the study provided
15 for under subsection (d), the Secretary shall carry out a
16 study of how best to coordinate the Medicare program and
17 the program established by the Federal Employees Health
18 Benefits Act, with the objective of developing for Federal
19 employees a combined program of health insurance benefits
20 to accompany the retirement and disability program de-
21 veloped under subsection (d). Such combined program shall
22 include the features necessary to assure that Federal em-
23 ployees are no worse under that program, in terms of benefits,
24 than they were under the Federal Employees Health Benefits
25 Act as theretofore in effect. The study under this subsection

1 shall in general take into account the same aspects of the two
2 health insurance programs and their coordination as those
3 taken into account (with respect to the two retirement and
4 disability systems) under subsection (d); and the report
5 submitted under subsection (d) (2) shall include or be
6 accompanied by a full and complete report on the results of
7 the study under this subsection.

8 COVERAGE OF STATE AND LOCAL EMPLOYEES

9 SEC. 402. (a) Section 218 (g) of the Social Security Act
10 is amended—

11 (1) by striking out “Upon” in paragraph (1) and
12 “if” in paragraph (2), and by inserting in lieu thereof
13 “Subject to paragraph (4), upon” and “Subject to para-
14 graph (4), if”, respectively; and

15 (2) by adding at the end thereof the following new
16 paragraph:

17 “(4) No agreement under this section may be terminated
18 under paragraph (1) or paragraph (2) (either in its en-
19 tirety or with respect to any coverage group) unless the ap-
20 plicable notice referred to in such paragraph is given on or
21 before September 13, 1977.”.

22 (b) Effective with respect to service performed after
23 December 1981—

24 (1) section 218 of the Social Security Act is
25 repealed;

1 (2) section 210 (a) of such Act is amended by
2 striking out paragraph (7) ; and

3 (3) section 3121 (b) of the Internal Revenue Code
4 of 1954 is amended by striking out paragraph (7).

5 (c) (1) (A) Chapter 21 of the Internal Revenue Code
6 of 1954 (the Federal Insurance Contributions Act) is
7 amended by redesignating sections 3125 and 3126 as sections
8 3126 and 3127, respectively, and by inserting after section
9 3124 the following new section:

10 **“SEC. 3125. RETURNS IN THE CASE OF STATE AND LOCAL**
11 **GOVERNMENTAL EMPLOYEES.**

12 “In the case of the taxes imposed by this chapter with
13 respect to services performed in the employ of a State or
14 any political subdivision thereof, or in the employ of any
15 instrumentality of a State or political subdivision thereof
16 which is wholly owned thereby, the return and payment of
17 the taxes may be made by the Governor of such State or
18 such agents as he may designate. The person making such
19 return may, for convenience of administration, make pay-
20 ments of the tax imposed by section 3111 with respect to
21 such service without regard to the contribution and benefit
22 base limitation in section 3121 (a) (1).”.

23 (B) The table of sections for subchapter C of chapter
24 21 of such Code (as so amended) is further amended by

1 striking out the last two items and inserting in lieu thereof
2 the following:

“Sec. 3125. Returns in the case of State and local govern-
mental employees.

“Sec. 3126. Returns in the case of governmental employees
in Guam, American Samoa, and the District
of Columbia.

“Sec. 3127. Short title.”.

3 (2) (A) Section 6205 (a) of Such Code (relating to
4 adjustment of tax) is amended—

5 (i) by striking out “3125” in paragraphs (3) and
6 (4) and inserting in lieu thereof “3126”;

7 (ii) by redesignating paragraphs (3) and (4) as
8 paragraphs (4) and (5), respectively; and

9 (iii) by inserting after paragraph (2) the follow-
10 ing new paragraph:

11 “(3) STATE AS EMPLOYER.—For purposes of this
12 subsection, in the case of remuneration received during
13 any calendar year from a State or political subdivision
14 thereof or any instrumentality which is wholly owned
15 thereby, the Governor of the State and each agent des-
16 ignated by him who makes a return pursuant to sec-
17 tion 3125 shall be deemed a separate employer.”.

18 (B) Section 6413 (a) of such Code (relating to ad-
19 justment of tax) is amended—

20 (i) by striking out “3125” in paragraphs (3) and
21 (4) and inserting in lieu thereof “3126”;

1 (ii) by redesignating paragraphs (3) and (4) as
2 paragraphs (4) and (5), respectively; and

3 (iii) by inserting after paragraph (2) the follow-
4 ing new paragraph:

5 “(3) STATE AS EMPLOYER.—For purposes of this
6 subsection, in the case of remuneration received during
7 any calendar year from a State or political subdivision
8 thereof or any instrumentality which is wholly owned
9 thereby, the Governor of the State and each agent des-
10 ignated by him who makes a return pursuant to sec-
11 tion 3125 shall be deemed a separate employer.”.

12 (C) Section 6413 (c) (2) of such Code (relating to
13 applicability in case of certain governmental employees) is
14 amended—

15 (i) by striking out subparagraph (B) and inserting
16 in lieu thereof the following new subparagraph:

17 “(B) STATE EMPLOYEES.—For purposes of
18 this subsection, in the case of remuneration received
19 during any calendar year from a State or political
20 subdivision thereof or any instrumentality which is
21 wholly owned thereby, the Governor of the State
22 and each agent designated by him who makes a
23 return pursuant to section 3125 shall be deemed a
24 separate employer.”; and

1 (ii) by striking out “3125 (a)”, “3125 (b)”, and
2 “3125 (c)” in subparagraphs (D), (E), and (F) and
3 inserting in lieu thereof “3126 (a)”, “3126 (b)”, and
4 “3126 (c)”, respectively.

5 (3) Section 230 (c) of the Social Security Act is
6 amended by striking out “3125,” and inserting in lieu there-
7 of “3126,”.

8 (d) (1) Section 205 (c) (5) (F) (iii) of such Act is
9 amended by striking out “are made” and inserting in lieu
10 thereof “were made”.

11 (2) Section 209 (i) of such Act is amended by striking
12 out “(as defined in section 218 (b) (2))”.

13 (3) Section 210 (a) (10) (B) (ii) of such Act is
14 amended by striking out “, unless” and all that follows and
15 inserting in lieu thereof a semicolon.

16 (4) Section 210 (k) of such Act is repealed.

17 (5) Section 211 (c) (1) of such Act is amended by
18 striking out “and in which” and all that follows and insert-
19 ing in lieu thereof a semicolon.

20 (6) Section 211 (c) (2) (E) of such Act is amended
21 by striking out “with respect to fees” and all that follows
22 and inserting in lieu thereof “, and”.

23 (e) (1) Clause (A) in the second sentence of section
24 1402 (b) of the Internal Revenue Code of 1954 is amended

1 by striking out "under an agreement" where it first appears
2 and all that follows down through "employees), or", and
3 by striking out the comma before "as would be wages".

4 (2) Section 1402 (c) (1) of such Code is amended by
5 striking out "and in which" and all that follows and insert-
6 ing in lieu thereof a semicolon.

7 (3) Section 1402 (c) (2) (E) of such Code is amended
8 by striking out "with respect to fees" and all that follows
9 and inserting in lieu thereof ", and".

10 (4) Section 3121 (b) (10) (B) (ii) of such Code is
11 amended by striking out ", unless" and all that follows and
12 inserting in lieu thereof a semicolon.

13 (5) Section 3121 (j) of such Code is repealed.

14 (6) Section 6511 (d) (5) of such Code is repealed.

15 (f) The amendments and repeals made by subsections
16 (b), (c), (d), and (e) (1) through (5) of this section
17 shall be effective with respect to service performed after
18 December 1981. Subsection (e) (6) shall be effective with
19 respect to claims accruing after December 1981.

20 **COVERAGE OF EMPLOYEES OF NONPROFIT**

21 **ORGANIZATIONS**

22 . SEC. 403. (a) (1) Section 3121 (k) (1) of the Internal
23 Revenue Code of 1954 (relating to waiver of exemption by
24 organization) is amended—

25 (A) by striking out "The period" in the first sen-

1 tence of subparagraph (D) and inserting in lieu thereof

2 “Subject to subparagraph (G), the period”; and

3 (B) by adding at the end thereof the following new

4 subparagraph:

5 “(G) No period for which a certificate is effec-
6 tive may be terminated under subparagraph (D) or
7 paragraph (2) unless the applicable advance notice
8 referred to in such subparagraph or paragraph is
9 given on or before September 13, 1977.”.

10 (2) Section 3121 (k) (2) of such Code (relating to
11 termination of waiver period by Secretary) is amended by
12 striking out “If” and inserting in lieu thereof “Subject to
13 paragraph (1) (G), if”.

14 (b). Effective with respect to service performed after
15 December 1981—

16 (1) section 210 (a) (8) of the Social Security Act
17 is amended—

18 (A) by striking out “(A)” immediately after
19 “(8)”,

20 (B) by striking out “this subparagraph” where
21 it first appears and inserting in lieu thereof “this
22 paragraph”, and

23 (C) by striking out subparagraph (B) ;

24 (2) section 3121 (b) (8) of the Internal Revenue
25 Code of 1954 is amended—

1 (A) by striking out “(A)” immediately after
2 “(8)”,

3 (B) by striking out “this subparagraph” where
4 it first appears and inserting in lieu thereof “this
5 paragraph”, and

6 (C) by striking out subparagraph (B) ; and

7 (3) section 3121 (k) of such Code (relating to ex-
8 emption of religious, charitable, and certain other organi-
9 zations) is repealed.

10 CREDITING OF CERTAIN FEDERAL, STATE, AND LOCAL
11 SERVICE, AND CERTAIN SERVICE FOR NONPROFIT OR-
12 GANIZATIONS, PERFORMED PRIOR TO THE EFFECTIVE
13 DATE OF COVERAGE

14 SEC. 404. Section 213 of the Social Security Act is
15 amended by adding at the end thereof the following new
16 subsection:

17 “Crediting of Certain Federal, State, and Local Service, and
18 Certain Service for Nonprofit Organizations, Performed
19 Prior to Effective Date of Coverage

20 “(d) In the case of any individual who—

21 “(1) (A) performs service in the employ of the
22 United States or any instrumentality thereof (and derives
23 at least six quarters of coverage therefrom) on or after
24 the effective date of the repeal of section 210 (a) (5) and

1 (6) by section 401 of the Social Security Financing
2 Amendments of 1977, and

3 “(B) also performed service in the employ of the
4 United States or any instrumentality thereof prior to
5 such date, or

6 “(2) (A) performs service in the employ of a State
7 or political subdivision or any instrumentality of any
8 one or more of the foregoing which is wholly owned
9 thereby (and derives at least six quarters of coverage
10 therefrom) on or after the effective date of the repeal of
11 section 210 (a) (7) by section 402 of the Social Security
12 Financing Amendments of 1977, and

13 “(B) also performed service in the employ of a
14 State or political subdivision or any such instrumentality
15 prior to such date, or

16 “(3) (A) performs service in the employ of a
17 religious, charitable, educational, or other organization
18 described in section 501 (c) (3) of the Internal Revenue
19 Code of 1954 which is exempt from income tax under
20 section 501 (a) of such Code (and derives at least six
21 quarters of coverage therefrom) on or after the effective
22 date of the repeal of section 210 (a) (8) (B) by section
23 403 of the Social Security Financing Amendments of
24 1977, and

1 (ii) by striking out “section 210 (a) (16)” in sub-
2 paragraph (B) and inserting in lieu thereof “section
3 210 (a) (13)”;

4 (iii) by striking out “section 210 (a) (11), (12),
5 or (15)” in subparagraph (C) and inserting in lieu
6 thereof “section 210 (a) (8), (9), or (12)”;

7 (iv) by striking out “section 210 (a) (20)” in sub-
8 paragraph (F) and inserting in lieu thereof “section
9 210 (a) (17)”.

10 (b) (1) Section 3121 (b) of the Internal Revenue
11 Code of 1954 (relating to definition of employment), as
12 amended by the preceding provisions of this title, is further
13 amended by redesignating paragraphs (8) through (20)
14 as paragraphs (5) through (17), respectively.

15 (2) (A) Section 1402 (c) (2) of such Code (relating
16 to definition of trade or business) is amended—

17 (i) by striking out “section 3121 (b) (14) (B)”
18 in subparagraph (A) and inserting in lieu thereof “sec-
19 tion 3121 (b) (11) (B)”;

20 (ii) by striking out “section 3121 (b) (16)” in
21 subparagraph (B) and inserting in lieu thereof “section
22 3121 (b) (13)”;

23 (iii) by striking out “section 3121 (b) (11), (12),

1 or (15)” in subparagraph (C) and inserting in lieu
2 thereof “section 3121 (b) (8), (9), or (12)”;

3 (iv) by striking out “section 3121 (b) (20)” in
4 subparagraph (F) and inserting in lieu thereof “section
5 3121 (b) (17)”.

6 (B) Section 3121 (c) of such Code (relating to in-
7 cluded and excluded service) is amended by striking out “by
8 subsection (b) (9)” and inserting in lieu thereof “by sub-
9 section (b) (6)”.

10 (C) Section 3121 (r) (3) of such Code (relating to
11 election of coverage by religious orders) is amended by strik-
12 ing out “subsection (b) (8) (A)” and “section 210 (a) (8)
13 (A)” and inserting in lieu thereof “subsection (b) (5)”
14 and “section 210 (a) (5)”, respectively.

15 (D) Section 3124 of such Code (relating to estimate
16 of revenue reduction) is amended by striking out “section
17 3121 (b) (9)” and inserting in lieu thereof “section
18 3121 (b) (6)”.

19 (c) Section 18 (2) of the Railroad Retirement Act of
20 1974 is amended by striking out “section 210 (a) (9) of
21 the Social Security Act” and inserting in lieu thereof “sec-
22 tion 210 (a) (6) of the Social Security Act”.

23 (d) The amendments made by this section shall apply
24 with respect to service performed after December 1981.

1 TITLE V—OTHER PROVISIONS STRENGTHENING
2 THE INSURANCE CHARACTER AND EQUITY
3 OF THE PROGRAM

4 LIBERALIZATION AND EVENTUAL REPEAL OF EARNINGS
5 LIMITATION

6 SEC. 501. (a) (1) Effective with respect to taxable
7 years beginning on or after January 1, 1978, and before
8 January 1, 1979—

9 (A) subsections (f) (1), (f) (3), and (f) (4) (B)
10 of section 203 of the Social Security Act are amended by
11 striking out “\$200 or the exempt amount as determined
12 under paragraph (8)” and inserting in lieu thereof
13 “\$416.66 $\frac{2}{3}$ ”; and

14 (B) subsection (h) (1) (A) of such section 203 is
15 amended by striking out “\$200 or the exempt amount as
16 determined under subsection (f) (8)” and inserting in
17 lieu thereof “\$416.66 $\frac{2}{3}$ ”,

18 (2) Effective with respect to taxable years beginning
19 on or after January 1, 1979, and before January 1, 1980,
20 subsections (f) (1), (f) (3), (f) (4) (B), and (h) (1) (A)
21 of such section 203 are amended by striking out “\$416.66 $\frac{2}{3}$ ”
22 and inserting in lieu thereof “\$625”.

23 (3) Effective with respect to taxable years beginning
24 on or after January 1, 1980, subsections (b), (d), (f), (h),

1 (j), and (k) of section 203 of the Social Security Act are
2 repealed (and the amendments made by the succeeding
3 provisions of this section shall apply).

4 (b) (1) Subsection (c) of section 203 of such Act is
5 redesignated as subsection (b); and such subsection as so
6 redesignated is amended—

7 (A) by striking out “Noncovered Work Outside the
8 United States or” in the heading;

9 (B) by striking out paragraph (1);

10 (C) by redesignating paragraphs (2), (3), and
11 (4) as paragraphs (1), (2), and (3), respectively;

12 (D) by striking out “For purposes of paragraphs
13 (2), (3), and (4)” and inserting in lieu thereof “For
14 purposes of paragraphs (1), (2), and (3)”;

15 (E) by striking out the last sentence.

16 (2) Subsection (e) of such section 203 is redesignated
17 as subsection (c); and such subsection as so redesignated is
18 amended by striking out “subsections (c) and (d)” and in-
19 serting in lieu thereof “subsection (b)”.

20 (3) Subsection (g) of such section 203 is redesignated
21 as subsection (d); and such subsection as so redesignated
22 is amended by striking out “subsection (c)” each place
23 it appears and inserting in lieu thereof “subsection (b)”.

24 (4) Subsection (i) of such section 203 is redesignated
25 as subsection (e); and such subsection as so redesignated

1 is amended by striking out “subsection (b), (c), (g), or
2 (h)” and inserting in lieu thereof “subsection (b) or (d)”.

3 (5) Subsection (1) of such section 203 is redesignated
4 as subsection (f); and such subsection as so redesignated
5 as amended by striking out “subsection (g) or (h) (1) (A)”
6 and inserting in lieu thereof “subsection (d)”.

7 (c) (1) Section 202 (n) (1) of such Act is amended
8 by striking out “Section 203 (b), (c), and (d)” and insert-
9 ing in lieu thereof “Section 203 (b)”.

10 (2) (A) Section 202 (q) (5) (B) of such Act is
11 amended by striking out “section 203 (c) (2)” and insert-
12 ing in lieu thereof “section 203 (b) (1)”.

13 (B) Section 202 (q) (7) (A) of such Act is amended
14 by striking out “deductions under section 203 (b), 203
15 (c) (1), 203 (d) (1), or 222 (b)” and inserting in lieu
16 thereof “deductions on account of work under section 203
17 or deductions under section 222 (b)”.

18 (3) (A) Section 202 (s) (1) of such Act is amended
19 by striking out “paragraphs (2), (3), and (4) of section
20 203 (c)” and inserting in lieu thereof “paragraphs (1),
21 (2), and (3) of section 203 (b)”.

22 (B) Section 202 (s) (3) of such Act is amended by
23 striking out “the last sentence of subsection (c) of section
24 203, subsection (f) (1) (C) of section 203,”.

25 (4) Section 202 (t) (7) of such Act is amended by

1 striking out "Subsections (b), (c), and (d)" and inserting
2 in lieu thereof "Subsection (b)".

3 (5) Section 202(w)(2)(B)(ii) of such Act is
4 amended to read as follows:

5 " (ii) such individual (I) was not entitled to an
6 old-age insurance benefit, (II) suffered deductions,
7 in amounts equal to the amount of such benefit,
8 under section 203(b) as in effect in the month or
9 months involved, or (III) would have suffered
10 deductions on account of work, in amounts equal to
11 the amount of such benefit (as determined under
12 regulations of the Secretary), under subsections (b)
13 through (l) of section 203 as in effect immediately
14 prior to the enactment of this clause (III) if such
15 subsections (other than paragraph (8) of subsection
16 (f)) had remained in effect through such month or
17 months."

18 (6) Section 203(a)(2)(C) of such Act is amended by
19 striking out "and subsections (b), (c), and (d)" and insert-
20 ing in lieu thereof "and subsection (b)".

21 (7) Section 208(a)(3) of such Act is amended by
22 striking out "under section 203(f) of this title for purposes
23 of deductions from benefits" and inserting in lieu thereof
24 "under section 203 for purposes of deductions from benefits
25 on account of work".

1 (8) Section 215 (g) of such Act is amended by striking
2 out "and deductions under section 203 (b)".

3 (9) Section 1612 (a) of such Act is amended—

4 (A) by striking out "as determined under section
5 203 (f) (5) (C)" in paragraph (1) (A) and inserting
6 in lieu thereof "as defined in the last sentence of this
7 subsection"; and

8 (B) by adding at the end thereof the following

9 new sentence:

10 "For purposes of paragraph (1) (A), the term 'wages'
11 means wages as defined in section 209, but computed without
12 regard to the limitations as to amounts of remuneration spec-
13 ified in subsections (a), (g) (2), (g) (3), (h) (2), and
14 (j) of such section; and in making such computation services
15 which do not constitute employment as defined in section
16 210, performed within the United States by an individual
17 as an employee or performed outside the United States in
18 the active military or naval service of the United States,
19 shall be deemed to be employment as so defined if the
20 remuneration for such services is not includible in computing
21 the individual's net earnings or net loss from self-employ-
22 ment for purposes of title II."

23 (10) Section 2 of the Railroad Retirement Act of 1974
24 is amended by striking out subsections (f) and (g) (2).

25 (d) The amendments made by this section shall be

1 effective with respect to taxable years ending after the date
2 of the enactment of this Act.

3 **LIMITATION ON PRIMARY INSURANCE AMOUNT OF DIS-**
4 **ABLED OR DECEASED WORKER**

5 **SEC. 502. (a) (1)** Section 215 (a) of the Social Secu-
6 rity Act (as amended by section 201 (a) of this Act) is
7 further amended by adding after paragraph (5) the follow-
8 ing new paragraph:

9 “(6) Notwithstanding any other provision of this
10 title, for purposes of determining for any month—

11 “(A) the amount of the disability insurance
12 benefit to which an individual is entitled under sec-
13 tion 223,

14 “(B) the amount of the old-age insurance ben-
15 efit to which an individual is entitled under section
16 202 (a) in any case where—

17 “(i) such individual was entitled to a dis-
18 ability insurance benefit for the month before
19 the month in which he became entitled to such
20 old-age insurance benefit, or

21 “(ii) such individual had a period of dis-
22 ability which ended prior to the month before
23 the month in which he became entitled to such
24 old-age insurance benefit, or

1 “(C) the amount of the monthly insurance
2 benefit to which any person is entitled—

3 “(i) under subsection (b), (c), or (d) of
4 section 202 on the basis of the wages and self-
5 employment income of an individual who (I)
6 is entitled to disability insurance benefits or
7 (II) is entitled to old-age insurance benefits
8 after having had a previous period of disability
9 which ended as described in subparagraph (B)
10 (ii), or

11 “(ii) under subsection (d), (e), (f), (g),
12 or (h) of section 202 on the basis of the wages
13 and self-employment income of a deceased in-
14 dividual,

15 such individual's primary insurance amount (as other-
16 wise determined under this section or for purposes of
17 section 223 (a) (2)) shall not exceed the highest pri-
18 mary insurance amount which could be determined for
19 such month under the provisions of this section (other
20 than this paragraph), as then in effect, for a person
21 who attained age 65 and became entitled to old-age in-
22 surance benefits (without regard to section 202 (j)) in
23 the month for which such individual became entitled
24 to disability insurance benefits (in a case described in

1 subparagraph (A), (B) (i), or (C) (i) (I)), the
2 month in which such individual attained age 65 or died
3 (in a case described in subparagraph (B) (ii) or (C)
4 (i) (II)), or the month in which such individual died
5 (in a case described in subparagraph (C) (ii)).”

6 (2) Section 223 (a) (2) of such Act is amended by
7 striking out “shall be equal” in the first sentence and insert-
8 ing in lieu thereof “shall (subject to section 215 (a) (6))
9 be equal”.

10 (b) (1) Section 215 (f) (2) (A) of such Act (as
11 amended by section 201 (f) (1) of this Act) is further
12 amended by inserting “or for the year in which a period
13 of disability (as defined in section 216 (i) (2) (C)) begins
14 with respect to him, or for the year in which he dies,” after
15 “disability insurance benefits,”.

16 (2) Section 215 (f) (2) (B) of such Act (as so
17 amended) is further amended by inserting before the period
18 at the end thereof the following: “or the amount determined
19 under subsection (a) (6) ”.

20 (c) (1) Except as provided in paragraph (2), the
21 amendments made by subsection (a) shall apply with re-
22 spect to months after December 1978 and the amendments
23 made by subsection (b) shall apply with respect to years
24 after 1978.

25 (2) With respect to the primary insurance amount of

1 any individual who is entitled to a disability insurance benefit
2 for the month of December 1978 or who dies in or prior to
3 that month, the amendments made by this section shall not
4 apply; but, if such individual's primary insurance amount as
5 determined for December 1978 under section 215 (a) of the
6 Social Security Act (or for purposes of section 223 (a) (2)
7 of such Act) exceeds the primary insurance amount which
8 he would have for that month if section 215 (a) (6) of such
9 Act (as added by subsection (a) (1) of this section) were
10 applicable, such individual's primary insurance amount (as
11 so determined for December 1978) shall not be increased
12 under section 215 (i) of such Act so long as such section 215
13 (a) (6) would have the effect of reducing such primary in-
14 surance amount if it applied.

15 ACTUARIAL REDUCTION OF BENEFIT INCREASES (TO BE
16 APPLIED AS OF TIME OF ORIGINAL ENTITLEMENT)

17 SEC. 703. (a) Effective with respect to monthly benefits
18 payable for months after December 1977, section 202 (q)
19 (4) of the Social Security Act is amended by striking out
20 all that follows subparagraph (B) and inserting in lieu
21 thereof the following:

22 "then the amount of the reduction of such benefit (after the
23 application of any adjustment under paragraph (7)) for
24 each month beginning with the month of such increase in
25 the primary insurance amount shall be computed under

1 paragraph (1) or (3), whichever applies, as though the
2 increased primary insurance amount had been in effect for
3 and after the month for which the individual first became
4 entitled to such monthly benefit reduced under such para-
5 graph (1) or (3).”.

6 (b) For purposes of applying section 202 (q) (4) of
7 the Social Security Act, as amended by subsection (a) of
8 this section, to monthly benefits payable for any month after
9 December 1977 in the case of an individual who was
10 entitled to a monthly benefit as reduced under section 202
11 (q) (1) or (3) of such Act prior to January 1978, the
12 amount of reduction in such benefit for the first month for
13 which such benefit is increased by reason of an increase in
14 the primary insurance amount of the individual on whose
15 wages and self-employment income such benefit is based and
16 for all subsequent months (and similarly for all subsequent
17 increases) shall be increased by a percentage equal to the
18 percentage of the increase in such primary insurance amount
19 (such increase being made in accordance with the provi-
20 sions of section 202 (q) (8) of such Act). Where such indi-
21 vidual's benefit, reduced under section 202 (q) of such Act,
22 is increased as a result of the use of an adjusted reduction
23 period or an additional adjusted reduction period (in ac-
24 cordance with paragraphs (1) and (3) of such section 202
25 (q)), then for the first month for which such increase is

1 effective and for all subsequent months, the amount of such
2 reduction (after the application of the previous sentence,
3 if an increase in the primary insurance amount is applicable)
4 shall be determined—

5 (1) in the case of old-age and spouse's insurance
6 benefits, by multiplying such amount by the ratio of (A)
7 the number of months in the adjusted reduction period
8 to (B) the number of months in the reduction period,

9 (2) in the case of widow's and widower's insurance
10 benefits for the month in which such individual attains
11 age 62, by multiplying such amount by the ratio of
12 (A) the number of months in the reduction period be-
13 ginning with age 62 multiplied by $\frac{19}{40}$ of 1 per centum,
14 plus the number of months in the adjusted reduction
15 period prior to age 62 multiplied by $\frac{19}{40}$ of 1 per cen-
16 tum, plus the number of months in the adjusted addi-
17 tional reduction period multiplied by $\frac{43}{240}$ of 1 per cen-
18 tum to (B) the number of months in the reduction
19 period multiplied by $\frac{19}{40}$ of 1 per centum, plus the num-
20 ber of months in the additional reduction period multi-
21 plied by $\frac{43}{240}$ of 1 per centum, and

22 (3) in the case of widow's and widower's insurance
23 benefits for the month in which such individual attains
24 age 65, by multiplying such amount by the ratio of (A)
25 the number of months in the adjusted reduction period

1 multiplied by $\frac{1}{40}$ of 1 per centum, plus the number of
2 months in the adjusted additional reduction period mul-
3 tiplied by $\frac{3}{240}$ of 1 per centum to (B) the number of
4 months in the reduction period beginning with age 62
5 multiplied by $\frac{1}{40}$ of 1 per centum, plus the number of
6 months in the adjusted reduction period prior to age 62
7 multiplied by $\frac{1}{40}$ of 1 per centum, plus the number of
8 months in the adjusted additional reduction period
9 multiplied by $\frac{3}{240}$ of 1 per centum,

10 with each such decrease being made in accordance with the
11 provisions of section 202 (q) (8) of such Act.

12 (c) When an individual is entitled to more than one
13 monthly benefit under title II of the Social Security Act for
14 any month and one or more of such benefits are reduced
15 under section 202 (q) of the Social Security Act, as amended
16 by this Act, subsection (b) of this section shall apply
17 separately to each such benefit before the application of sec-
18 tion 202 (k) of such Act (pertaining to the method by
19 which monthly benefits are offset when an individual is
20 entitled to more than one kind of benefit), and the applica-
21 tion of this subsection shall operate in conjunction with
22 section 202 (q) (3) of the Social Security Act.

23 (d) (1) Section 202 (q) (7) (C) of the Social Security
24 Act is amended by striking out "because" and all that follows
25 and inserting in lieu thereof "because of the occurrence of

1 an event that terminated her or his entitlement to such
2 benefits,”.

3 (2) Section 202 (q) (3) (H) of such Act is amended
4 by inserting “for that month or” after “first entitled”.

5 **DEFINITION**

6 **SEC. 504.** As used in this Act and the amendments to
7 the Social Security Act made by this Act, the term “Sec-
8 retary” means, unless the context otherwise requires, the
9 Secretary of Health, Education, and Welfare.

95TH CONGRESS
1ST SESSION

H. R. 9595

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for a gradual increase in retirement age from sixty-five to sixty-eight, to improve the treatment of women (through the establishment of a working spouse's benefit and otherwise) and to eliminate gender-based discrimination, to provide coverage under the system for officers and employees of the United States, of State and local governments, and of nonprofit organizations, to increase and ultimately repeal the earnings limitation, and for other purposes.

By Mr. CONABLE

OCTOBER 17, 1977

Referred to the Committee on Ways and Means

Union Calendar No. 408

95TH CONGRESS
1ST SESSION

H. R. 5723

[Report No. 95-617, Parts I and II]

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 1977

Mr. BURKE of Massachusetts (for himself, Mr. ANNUNZIO, Mr. BLANCHARD, Mr. BURLISON of Missouri, Mr. BLOUIN, Mr. COCHRAN of Mississippi, Mr. EILBERG, Mr. FLOWERS, Mr. HAMMERSCHMIDT, Mr. HARRINGTON, Mr. HEFNER, Mr. JACOBS, Mr. JONES of Oklahoma, Mr. LUJAN, Mr. MCDADE, Mr. MAHON, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. OBERSTAR, Mr. PREYER, Mr. RODINO, Mr. ST GERMAIN, Mr. CHARLES WILSON of Texas, Mr. WON PAT, and Mr. ZEFERETTI) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and Ways and Means

SEPTEMBER 22, 1977

Reported from the Committee on Ways and Means

OCTOBER 31, 1977

Reported from the Committee on Post Office and Civil Service with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 ~~That the persons who were appointed to serve as hearing~~

1 ~~examiners under section 1631(d)(2) of the Social Security~~
2 ~~Act (as in effect prior to January 2, 1976), and who by~~
3 ~~section 3 of Public Law 94-202 were deemed to be appointed~~
4 ~~under section 3105 of title 5, United States Code (with such~~
5 ~~appointments terminating no later than at the close of the~~
6 ~~period ending December 31, 1978), shall be deemed ap-~~
7 ~~pointed to career-absolute positions as hearing examiners~~
8 ~~under and in accordance with section 3105 of title 5, United~~
9 ~~States Code, with the same authority and tenure (without~~
10 ~~regard to the expiration of such period) as hearing examiners~~
11 ~~appointed directly under such section 3105, and shall receive~~
12 ~~compensation at the same rate as hearing examiners ap-~~
13 ~~pointed by the Secretary of Health, Education, and Welfare~~
14 ~~directly under such section 3105. All of the provisions of~~
15 ~~title 5, United States Code, and the regulations promulgated~~
16 ~~pursuant thereto, which are applicable to hearing examiners~~
17 ~~appointed under such section 3105, shall apply to the persons~~
18 ~~described in the preceding sentence.~~

19 *That section 3 of the Act of January 2, 1976, entitled*
20 *“An Act to amend the Social Security Act to expedite the*
21 *holding of hearings under titles II, XVI, and XVIII by*
22 *establishing uniform review procedures under such titles, and*
23 *for other purposes” (Public Law 94-202; 42 U.S.C. 1383*
24 *note) is amended by striking out “but their appointments shall*
25 *terminate not later than at the close of the period ending*

1 *December 31, 1978, and during that period” and inserting in*
2 *lieu thereof “and their appointments shall be on a nontem-*
3 *porary basis, and”.*

4 *SEC. 2. (a) Effective at the beginning of the first pay*
5 *period beginning after the date an individual in a temporary*
6 *ALJ position meets the minimum qualifications for appoint-*
7 *ment under section 3105 of title 5, United States Code, the*
8 *grade of any temporary ALJ position he holds shall be the*
9 *minimum grade in effect on October 1, 1977, for any*
10 *position under such section 3105, but only for so long as he*
11 *continues in such a temporary ALJ position without a break*
12 *in service of 1 work day or more.*

13 *(b) For purposes of this section, the term “temporary*
14 *ALJ position” means any position to which the provisions*
15 *of section 3 of the Act of January 2, 1976, applies.*

Amend the title so as to read: “A bill to provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall be deemed appointed as administrative law judges.”.

Union Calendar No. 408

95TH CONGRESS
1ST SESSION

H. R. 5723

[Report No. 95-617, Parts I and II]

A BILL

To provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges.

By Mr. BURKE of Massachusetts, Mr. ANNUNZIO, Mr. BLANCHARD, Mr. BURLISON of Missouri, Mr. BLOUIN, Mr. COCHRAN of Mississippi, Mr. EILBERG, Mr. FLOWERS, Mr. HAMMERSCHMIDT, Mr. HARRINGTON, Mr. HEFNER, Mr. JACOBS, Mr. JONES of Oklahoma, Mr. LUJAN, Mr. MCDADE, Mr. MAHON, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. OBERSTAR, Mr. PREYER, Mr. RODINO, Mr. ST GERMAIN, Mr. CHARLES WILSON of Texas, Mr. WON PAT, and Mr. ZEFERETTI

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SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

Background Material on H.R. 5723:
Conversion of Temporary Social
Security ALJ's



APRIL 18, 1977

NOTE.—This document has been printed for informational purposes only.
It has not been considered or approved by the subcommittee

Prepared by the staff of the Subcommittee on Social Security

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87-280 O

WASHINGTON : 1977

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**BACKGROUND MATERIAL ON H.R. 5723: CONVERSION
OF TEMPORARY SOCIAL SECURITY ALJ'S**

The text of H.R. 5723 and cosponsors follow (identical bills H.R. 5724, H.R. 5725, H.R. 6185, H.R. 6381, and H.R. 6495):

95TH CONGRESS
1ST SESSION

H. R. 5723

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 1977

Mr. BURKE of Massachusetts (for himself, Mr. ANNUNZIO, Mr. BLANCHARD, Mr. BURLISON of Missouri, Mr. BLOUIN, Mr. COCHRAN of Mississippi, Mr. EILBERO, Mr. FLOWERS, Mr. HAMMERSCHMIDT, Mr. HARRINOTON, Mr. HEFNER, Mr. JACOBS, Mr. JONES of Oklahoma, Mr. LUJAN, Mr. McDADÉ, Mr. MAHON, Mr. MOAKLEY, Mr. MURPHY of New York, Mr. OBERSTAR, Mr. PREYER, Mr. RODINO, Mr. ST GERMAIN, Mr. CHARLES WILSON of Texas, Mr. WON PAT, and Mr. ZEPERETTI) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and Ways and Means

A BILL

To provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the persons who were appointed to serve as hearing
- 4 examiners under section 1631 (d) (2) of the Social Security
- 5 Act (as in effect prior to January 2, 1976), and who by

1 section 3 of Public Law 94-202 were deemed to be appointed
2 under section 3105 of title 5, United States Code (with such
3 appointments terminating no later than at the close of the
4 period ending December 31, 1978), shall be deemed ap-
5 pointed to career-absolute positions as hearing examiners
6 under and in accordance with section 3105 of title 5, United
7 States Code, with the same authority and tenure (without
8 regard to the expiration of such period) as hearing examiners
9 appointed directly under such section 3105, and shall receive
10 compensation at the same rate as hearing examiners ap-
11 pointed by the Secretary of Health, Education, and Welfare
12 directly under such section 3105. All of the provisions of
13 title 5, United States Code, and the regulations promulgated
14 pursuant thereto, which are applicable to hearing examiners
15 appointed under such section 3105, shall apply to the persons
16 described in the preceding sentence.

95TH CONGRESS
1ST SESSION

H. R. 5724

Mr. BURKE of Massachusetts (for himself, Mr. ABDON, Mr. ADDABO, Mr. ALLEN, Mr. ANDERSON of California, Mr. BREAUX, Mr. BROYHILL, Mr. CORMAN, Mr. DRINAN, Mr. GELMAN, Mr. LAFALCE, Mr. LEHMAN, Mr. MINETA, Mr. MOTT, Mr. MURPHY of Illinois, Mr. NEAL, Mr. QUILLEN, Mr. ROSENTHAL, Mr. SEIBERLING, Mrs. SPELLMAN, Mr. STUDDS, Mr. TUCKER, Mr. VAN DEERLIN, Mr. VENTO, and Mr. WAXMAN) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and Ways and Means

95TH CONGRESS
1ST SESSION

H. R. 5725

Mr. BURKE of Massachusetts (for himself, Mr. DE LA GARZA, Mr. BEDELL, Mr. FANCELL, Mr. MARKEY, and Mr. BOB WILSON) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and Ways and Means

95TH CONGRESS
1st Session

H. R. 6185

Mr. BURKE of Massachusetts (for himself, Mr. AuCOIN, Mr. CARNEY, Mr. DAVIS, Mr. FISHER, Mr. ICHORD, Mr. PATTERSON of California, Mr. LUKEN, Mr. ROYBAL, and Mr. WOLFF) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and Ways and Means

95TH CONGRESS
1st Session

H. R. 6381

Mr. BURKE of Massachusetts (for himself, Mr. FRASER, Mr. LOTT, Mr. PEPPER, Mr. ROSE, Mr. STEERS, Mr. TREEN, and Mr. WINN) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and Ways and Means

95TH CONGRESS
1st Session

H. R. 6495

Mr. MANN introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and Ways and Means

Purpose of Legislation

H.R. 5723 (with identical bills H.R. 5724, H.R. 5725, H.R. 6185, H.R. 6381 and H.R. 6495), introduced by James A. Burke, chairman of the Subcommittee on Social Security, and 69 cosponsors, is designed to overcome the inability of the Civil Service Commission to provide administrative law judges for the social security program. The result has been a loss of effectiveness of the hearings process and the increasing preoccupation of some 189 temporary hearing officers with their tenure and grade situation to the detriment of their ability to concentrate on their jobs. At the present time there are also 427 regular Social Security ALJ's which brings the total Social Security corps to 619. Moreover, we have recently learned that an attempt will be made to hire an additional 50 ALJ's in view of increasing workload and possible retirements. In March 1977, in spite of an average production rate of 27 cases per ALJ, receipts exceeded production by about 1,500 cases—18,000 receipts as opposed to 16,500 production. The backlog now stands at about 83,000 cases.

Public Law 94-202, signed by President Ford on January 2, 1976, was designed to resolve this long-standing problem. The legislation was developed by the Social Security Subcommittee after extensive hearings, testimony from the Civil Service Commission and the Department of HEW, interested administrative law judge organizations, and experts on administrative law and the social security appeals system. The main purport of the legislation was to improve and speed up the social security appeal process inasmuch as claimants were having to wait long periods of time for hearings on their cases. One of the provisions in Public Law 94-202 put all social security cases—social security, medicare, and SSI—under the same hearings and appeal procedures. It also authorized SSI hearing examiners to hear all these cases under the safeguards of the Administrative Procedure Act (APA) and stated that they should be converted to regular administrative law judges under the regular administrative law judge-APA appointment procedures. (The history of the dispute as to whether SSI was under the APA is described in appendix A.) These hearings officers warned the committee at that time that the Civil Service Commission would not move expeditiously on their applications, so the following language was included in the legislative reports—both Ways and Means and Finance—which stated in no uncertain terms that their experience adjudicating SSI cases should be given great weight and that there should be no lengthy bureaucratic delays in the appointment process.

The Committee on Ways and Means report stated:

The Office of Administrative Law Judges should be mindful of its ministerial responsibilities in supplying registers from which adequate numbers of ALJ's can be hired by HEW to adjudicate social security claims. There are indications that in the past these registers have not been supplied with the speed and with the number of candidates thereon which HEW needed to get better control over the hearings backlog. In evaluating current SSI hearings examiners for regular ALJ appointments great weight should be given to experience in actually adjudicating social security and

black lung cases and roadblocks should not be created in unduly lengthy and bureaucratic appointment procedures. Recent statistics show that of the 55 applications of SSI hearing examiners for the regular ALJ registers which have been acted upon by the Civil Service Commission, only 5 hearing examiners have been found eligible. This suggests to the committee that the Office of Administrative Law Judges is applying its standards unrealistically. Now that a majority of the ALJ corps in the Federal Government are working under Social Security Act programs, the Civil Service Commission should reexamine its ALJ appointment standards to assure that they are relevant to the positions that have to be filled. [H. Rept. 94-679, p. 4.]

The rationale of the legislation was to allow a reasonable length of time so that qualified SSI examiners and black lung judges could qualify under the normal merit appointment procedures. The report further stated:

It is hoped that these requirements and procedures will be applied in a manner to effectively serve the needs of the Social Security Act programs. The committee is not convinced that these needs have been adequately served in the past by the Office of Administrative Law Judges, Civil Service Commission. The performance of this office in overruling the administering agency (HEW) in its legal opinion that SSI was under the APA and in downgrading title II social security adjudications as bearing "little resemblance to the full-blown adversarial proceedings conducted by administrative law judges, under the Administrative Procedure Act, in regulatory agencies" does not reflect the will of Congress.

The Director of the Bureau of Hearings and Appeals had testified before the Social Security Subcommittee that there were a small number of hearings officers whose performance was such that they should not be given permanent ALJ appointments.

In the opinion of staff, the process of merit selection envisioned by the subcommittee is not taking place. The reason for this, in large part, is the nature of the ALJ selection procedure which appears to be unable to adjust to the present Social Security hearing officer problem. Or, to put it another way, the Civil Service Commission appears incapable or unwilling to attempt a meaningful assessment, under the criteria adopted by Congress, to determine which of the temporary ALJ's would do effective jobs as regular ALJ's. It is our opinion that unless the system is rather drastically changed a significant number of qualified hearing officers will not be appointed to permanent positions before their temporary appointments expire.

As will be shown in more detail later, the staff has reached the conclusion that the procedures are not so much based on a determination of an individual's ability, experience, and skills to do the job of a Social Security ALJ, but are based on (1) his previous GS-grade rating or his "status" as a private attorney as evidenced by the level of the court in which he may have appeared as counsel, and (2) a subjective evaluation of a skeletal rating form circulated to various former employers, partners, opposing counsel, judges, which require

checkmarks in various categories of activities as to whether the applicant is "outstanding," "better than adequate," "adequate," and so forth. The intricate method of grading experience and the responses, or "vouchers," from individuals is a closely held secret in the Office of the Administrative Law Judge of the Civil Service Commission and applicants have virtually no idea how the score results are arrived at. In barebones outline 80 points are necessary to get on the register—up to 60 can come from his past legal "experience" while up to 40 points can come from the evaluation of the "vouchers."

Mr. Burke has written to Mr. Charles Dullea, Director, Office of Administrative Law Judge, asking for the guidelines used to rate applicants for the ALJ register. Mr. Dullea has answered:

* * *, I am unable to provide a copy of the rating schedule and supplements used by the Commission in connection with examining announcement 318. These are documents disclosures from which to sources outside the Civil Service Commission would seriously jeopardize the examining and evaluative processes and the principles of merit selection. I would, of course, be glad to discuss generally the purposes and pertinent features of these documents at any time convenient to you.

The Committee on Ways and Means may wish to subpoena these documents because they are directly relevant to the consideration of the substance of H.R. 5723. Staff, however, from correspondence from temporary ALJ's and other secondary sources has developed what it believes is a fairly accurate picture of how applicants for the ALJ's register are rated.

Since the enactment of Public Law 202, only 15 temporary ALJ's have been placed on the GS-15 ALJ register, and 12 have been appointed to positions. The Director of the Bureau of Hearings and Appeals has written to Mr. Burke that a couple of ALJ's who are on the register cannot be "reached."

The following are some of the major areas of concern which have led to the introduction of H.R. 5723.

Lack of Weight Given to SSI Experience

The most flagrant disregard of congressional intent is the Civil Service Commission's failure to appropriately credit what is, perhaps, the most relevant experience to an appointment as a Social Security ALJ—namely, actual experience in adjudicating disability cases. Approximately 90 percent of social security hearing cases involve disability.

In view of the language in the committee reports the action of the Civil Service Commission is extraordinary. Although it is very difficult to understand the rating procedures of the Office of Administrative Law Judges,¹ the following are the most significant instances where SSI experience is being ignored. At the present time, more than 80 of the 120 former SSI hearing examiners meet the requirement

¹ Announcement 318 (see appendix B) which purportedly outlines the manner in which applicants are placed on the registers for ALJ's is one of the most obtuse documents released by the Federal Government. Moreover, subcommittee attempts to obtain the actual guidelines governing the ratings of ALJ's were unsuccessful as previously noted.

of Announcement 318 of having practiced law at least 7 years,² and all the former black lung judges meet the requirement.

However, Announcement 318 also requires that "to qualify at each grade level of hearing examiner position, at least 1 year of the applicants qualifying experience must have been gained in the 7-year period preceding the date of his application and must have been of level of difficulty, complexity, responsibility, and importance characteristic of at least the next lower grade in the Federal service." This has been interpreted rigidly by the Civil Service Commission—and contrary to the intent of Congress—to mean that experience in adjudicating SSI cases prior to May 1976, could not be used to meet the 1-year requirement because the temporary ALJ's were not GS-14's until that time. Thus, those ALJ's with no other "high grade" experience have been told that it would be a useless act to even apply before May of this year. And even those temporary ALJ's who meet the 1-year requirement on other non-SSI experience are being given no credit for their SSI experience.³ The Commissioner of Social Security protested this mechanistic interpretation but Civil Service Commission Chairman Hampton responded in a negative manner. (Letter of September 9, 1976, in response to Commissioner Cardwell letter of July 16, 1976) Mr. Burke attempted to get a more reasonable interpretation from the Civil Service Commission. In a letter to Mr. Hampton, he wrote:

Most former SSI examiners will not be eligible to be placed on regular ALJ registers until after April 30, 1977, even though they have the requisite experience. The strict application of the requirement that an individual be in grade 14 (or equivalent) to SSI hearing officers who meet the 7 year experience requirement seems particularly inappropriate. The work they were doing should never have been classified at GS-13 and you now seem to be compounding the classification error. Your letter to the Commissioner of Social Security which generally denies that any problems exist states that you are "not persuaded that the year in-grade standard, one of the conditions precedent to eligibility at GS-15, should be shortened." It is our understanding that you have authority to waive this requirement for otherwise qualified individuals. [Letter of Nov. 17, 1976]

On January 14, 1977, a few days before he resigned, Commissioner Hampton replied to Mr. Burke's letter by implication claiming lack of legal authority for a waiver (which he actually has) and defending the Civil Service Commission's previous classifications of SSI hearing examiners. Mr. Burke, on February 24, 1977, then wrote to the Chairman, Advisory Committee on Administrative Law Judges, Carl Goodman, who is currently the General Counsel of the Civil Service Commission:

In a letter on November 17, 1976, I expressed my displeasure with this situation to the then Chairman of the Civil Service Commission, Robert E. Hampton. I will not deal at

² Public Law 94-202's expiration date of Dec. 31, 1978, was designed to allow all SSI examiners an opportunity to get this experience.

³ Of the 78 temporary ALJ's and the SSI hearing examiners who have been assigned ratings of their experience, none has been assigned ratings in excess of 65. As will be shown later, this has made it very difficult for them to make the minimum score of 80 necessary to get them on the register.

length with Mr. Hampton's response other than to say that its tone and substance is almost entirely negative, as was an earlier response to a call for help from Commissioner Cardwell.

There is one element of Mr. Hampton's letter which I would like to bring to your attention because it goes to the heart of the problem which faces the temporary ALJ's, the Commission, and the Congress. The ALJ's are particularly disturbed that their experience as SSI examiners is not being properly recognized and that this is affecting them in not allowing them the necessary 80 points to get them on the register or, if they do get on the register, not allowing enough points to permit the Bureau of Hearings and Appeals to reach them on the register and make an actual appointment. The reason for this situation appears to be the determination by the Office of ALJ that it will not count for the "level of qualifying experience" any SSI experience prior to the enactment of Public Law 94-202. Temporary ALJ's who are relying wholly on this experience have been advised by the Office of ALJ that it is useless to apply for the register until May 1977. Moreover, the Office of ALJ has stated that if an application relies primarily on SSI, black lung, or current ALJ temporary experience the maximum points awarded would be 55, rather than a possible 60. Both these positions appear to be in total disregard to the legislative history of Public Law 94-202.

The Advisory Committee at its meeting of February 25 promised to address this matter when they meet again later this spring. It is our understanding that another meeting will be held in May.

In justice to the Office of Administrative Law Judges, staff does not mean to imply they are misapplying their rules. We do believe, however, that these rules—which have been in place for years—do not deal effectively with current problems in appointing ALJ's—particularly those in the benefits adjudication area—and that they are in direct conflict with Congress' direction to give great weight to SSI experience in regular Social Security ALJ appointments. Cases have been presented to staff where applicants have been credited with 55 points on the basis of their long experience in private practice and then having reapplied, after their SSI experience, received the same 55 points. A GS-13 attorney who in 1974 was appointed to be an SSI hearing examiner would receive only 50 points today although he has been adjudicating social security definition disability cases for 3 years. This would be the same score he would have received in 1973. A GS-14 attorney who was appointed in 1972 to be a black lung judge would receive a score of 55 today which is precisely the same score he would have received 5 years ago.

Of the 78 SSI hearing examiners and the temporary ALJ's who have met the 7-year-experience requirement the following breakdown of scores has been received:

Under 50.....	0
50.....	13
55.....	65
Over 55.....	0

Responses From Individuals—Vouchering

Method of inquiry

It is obvious from the above statistics that it is vital for an ALJ temporary to do well on this second phase of the examination—worth a theoretical maximum of 40 points—if he is to qualify for the register which requires a minimum of 80 points. The grading of the “vouchers” has resulted in the following scores for the 78 SSI hearing examiners and temporary ALJ’s:⁴

Points (maximum 40):	Number of applicants
10 to 15.....	5
16 to 20.....	21
21 to 24.....	19
25.....	15
26 to 30.....	16
Above 30.....	2
Total.....	78

The mathematics of this are apparent. Not many of our 78 hearing examiners are going to make 80 points, and those who do will be at the bottom of the register.⁵ It would be possible for only 2 of the group to score higher than 85.⁶ If on the other hand, 60 points had been given to these ALJs for experience, as would be consistent with the legislative history, about 60 of them would have qualified.

How is “vouchering” carried out and how are the results graded? Announcement 318 states:

It is incumbent on the applicant to make sure that his application and related papers contain the names and current addresses of at least 20 individuals who have personal knowledge of his experience and professional qualifications, so that confidential inquiries may be made of a number of them. Ordinarily, the applicant will find that he has listed at least this number in connection with his employment record and the cases in which he has participated. However, if an examination of his papers indicates to him that this is not so, he is required to add a sufficient number of names to increase the total to 20.

and further:

In the case of each applicant who is found to have clearly met the requirements of this announcement, confidential inquiries will be sent to a number of individuals whose names were furnished by him; confidential inquiries may also be sent to other individuals selected by the Commission.

The confidential inquiries consisting of a form letter (CSC form 192, see appendix C) are sent to references furnished by the applicant or to anyone the Commission deems has appropriate knowledge about the candidate such as a supervisor, opposing counsel, or judge. As to temporary ALJ’s, inquiries are also sent to counsel who have appeared

⁴ It should be noted that only the results of investigation of the most recent applications are set forth. Of the 78 individuals covered by the foregoing response, 38 percent had unsuccessfully applied for GS-15 eligibility on one or more prior occasions.

⁵ Actually the Office of ALJ states that 34 of the 79 hearing officers made an initial score of 80.

⁶ This is prior to veterans preference and other possible additional points if he first cracks the 80 point barrier.

before them. Respondents are asked to compare the candidate with other people they have known who have the same amount and type of training and experience, not to other applicants. They are also asked whether they have "daily," "frequent," or "infrequent" contact with a candidate and in what capacity they know him.

The form letter lists 11 categories to which the respondent is asked to reply by checking boxes headed as follows: "No Opportunity to Observe," "Less Than Adequate," "Adequate," "Better Than Adequate," "Outstanding."

The questions posed in the "vouchers" raise issues to which the closest associate or most critical teacher will have a hard time responding to objectively. For example, each respondent is asked to evaluate and to rate a candidate on the following: Analyzing and evaluating evidence; interpreting and applying laws, rules, regulations, and legal precedent; writing statements of fact and law; recommendations and orders; securing facts from individuals through observation and interviews under difficult conditions; handling difficult situations when presenting or preparing cases; presiding at meetings, conferences, or hearings; making independent decisions in important matters, objectivity, and professional standing.

The Commission acknowledges that no absolute standard exists for measuring the confidential inquiries it receives from the respondents. Each respondent, depending on his own background, must make an independent evaluation. Is it reasonable for the Civil Service Commission to assume that these replies are objective or in any way prepared on a uniform basis? Doesn't civil service experience with performance ratings by Federal job supervisors indicate the unreliability of this type of inquiry? Will respondents approach this task in the same way, so that uniform standards responses will be applied? Is any allowance made for the hard marker or the easy marker? The Commission has no way of knowing definitely whether a voucher was completed in 30 seconds, or 15 minutes; whether the voucher was completed by an attorney or his secretary; whether the respondent is a close friend of the applicant or his worst enemy.

The Commission divides respondents into two categories; those that are "controlling witness" and those that are not. A controlling witness is one who "because of his stature, the nature and extent of his relationship with the applicant and the recency of his observations, is best able to furnish a reliable, well-balanced evaluation of the applicant." The information furnished by a controlling witness, the Commission states " * * * definitely should be given prior consideration and heavier weight." If an applicant has the good fortune or bad luck of having as an opponent, a judge, coworker, or supervisor, one who is someone of "stature" it can make a big difference; it will also make a big difference whether his relationship with this person is a good or bad one. What will not make a difference is whether the "controlling witness" even knows the candidate, has a bias, or had his secretary complete the voucher (which is reasonable for someone of "stature").

The Commissioner of Social Security expressed his concern about "vouchering" in his letter to Mr. Hampton of July 16, 1976:

As to vouchering procedures, Mr. Trachtenberg (Director, BHA) and I are concerned that the practice of sending confidential inquiries to attorneys who represent claimants

at hearings is detrimental to the independence of the presiding officers involved and could jeopardize the principles of due process. Since the temporary ALJ's are aware of the voucher procedure and are apprehensive lest unsuccessful attorneys express their displeasure by providing a rating lower than the candidate deserves, the potential that the voucher could influence the individual's decision is a real one. In fact, we have already learned of some unwholesome, if not questionable, actions by attorneys in relation to the vouchers.

I understand that your evaluation methods take into consideration the identity and the professional relationship of the respondent, and I am satisfied that there are adequate safeguards to screen out the blantly biased reports. My primary concern, therefore, is with the ostensibly neutral rating, which is not so low as to raise the question of bias but is low enough to insure that the applicant will not accumulate sufficient points to qualify for the register of eligibles. This concern is reinforced by the disproportionately small number of BHA presiding officers who have qualified for the position of administrative law judge, GS-15, and the generally low score of those who have recently qualified.

The temporary administrative law judges serving with the Bureau of Hearings and Appeals are unique among the typical applicants for the position of administrative law judge. As duly appointed officers who preside over hearings conducted in accordance with the provisions of the Administrative Procedure Act, they are covered by all of the provisions of that act which assure independence from agency control. At the present time, however, they are not protected from the "chilling" effect that a claimant's professional representative can impose. Generally, other candidates for the position are not subject to this type of pressure,

In all fairness to the individuals concerned and in order to insure against any possible compromise of program integrity, I recommend that you modify the present procedure of querying attorneys of record as to the qualifications and suitability of the temporary administrative law judges. Indeed, I believe you should only solicit vouchers from individuals who do not, and did not, have cases before the presiding officer while he or she was employed by the Social Security Administration. I believe that sufficient vouchers can be obtained from other professional sources including fellow ALJ's who work with the applicant and from officials of BHA to satisfy the examining process. Indeed, vouchers could be dispensed with entirely, in favor of your office auditing a randomly selected number of hearings' transcripts at which the applicant ALJ presided.

If you find that it is impracticable to eliminate this category as a source of information, please consider establishing a system of verification to insure that the respondent is furnishing an objective, unbiased opinion. It appears that any such system should include an interview, in person or by telephone, which would establish the basis for a rating

of adequate or less than adequate in any category or any other comment or statement which reflects adversely on the candidate. The evaluation of any respondent who is unable to demonstrate an objective basis for the rating would then be disregarded when factoring the replies to the confidential inquiries.

Commissioner Hampton answered this as follows:

Turning now to the first suggestion in your letter, you submit that the Commission might limit its investigation of the professional qualifications of these temporary employees by discontinuing the inquiries it makes of the attorneys who appear before them and that the Commission rely solely on the evaluations of the applicants furnished by fellow hearing officers and administrative officers of the agency.

Our experience does show that critical evaluations are submitted to the Commission. However, existing procedures are fully adequate to resolve or verify the occasional biased evaluation, whether the bias is against or in favor of the applicant. In any event, the occasional evaluation of a questionable nature does not warrant the wholesale exclusion of lawyers from the investigative program; nor can the Commission, in carrying out its responsibilities, rely solely on the evaluations submitted by fellow hearing officers and others who do not participate in an applicant's hearings, and who have little, if any, knowledge of such relevant factors as conduct, temperament, demeanor, etc., in the hearing room. Parenthetically, it is to be noted that a biased evaluation in favor of an applicant from a hearing officer's colleague is not unknown. In any event, in the interest of developing a more effective product for rating purposes, consideration is now being given within the Commission to a change in the current procedure by converting all applications to personal investigation, as was recommended by the LaMacchia study group.

Grading of inquiries

The grading of the vouchers raise even greater questions about this highly subjective process. It is our understanding that they involve a weighing of the relative values of witnesses' testimony and an application of the examiners' judgment. Thus, if all or most of the respondents have checked "Outstanding," the examiner, using his judgment, nothing else, assigns a numerical value ranging from 27 to 40 points. If all "better than adequate" grade entries are checked the applicant may receive from 14 to 23 points. If "adequate" is checked in all instances he would receive from zero to 10 points. Needless to say the temporary ALJ who has between 50 and 55 points is at risk. He theoretically could get all "outstandings" and still not make the required 80 points. If he has a few "better than adequate" sprinkled in, he's in trouble and a couple of "adequate's" may seal his doom. As far as the temporary ALJ's are concerned, one might believe that the 11th question on the voucher might be the most important. It is entitled "Knowledge and Experience in Technical

Subject-Matter Fields." Seven administrative law fields are listed including one entitled "Benefits" and the following breakdown is given to respondent to evaluate the temporary ALJ's experience:

No Opportunity to Observe.

Limited Variety of Experience With Localized Problems.

Limited Variety of Experience With Problems National or International in Scope.

Wide Variety of Experience With Problems National or International in Scope.

These options of response as applied to ALJs doing social security work must be puzzling to the ordinary respondent or, for that matter, to any reasonable person. However, if any of the middle options are checked the temporary ALJ who needs an Outstanding to survive has been wounded again.^{6a}

Summarizing at this point it should be remembered that the vouchers are the reflections of what some 20 people⁷ think of a candidate expressed in subjective concepts of "outstanding," "adequate," etc. The CSC examiner's evaluation compounds this subjectivity.

Respondents are not well informed of the importance of the task assigned to them, nor are they furnished information on how the vouchers are evaluated. Many have no knowledge as to the significance of what they are doing. The respondent is never told how the information furnished is evaluated, but it is mathematically demonstrable that unless the respondent checks only the column headed "Outstanding," no candidate, other than those scoring 55, will attain the minimum points required to place him on the register. One commentator has characterized this scoring similar to the "sudden death" playoff of professional football.⁸ The fragility of the system is underscored also by the fact that since the maximum points available are only 23—if any column other than "Outstanding" is checked—only a candidate with over 55 points under the experience part can attain 80 or better. The anomaly of the scoring process is that the candidates that may be the least qualified under the "voucher" part may pass. This is so because under the "experience" part 60 points are awarded automatically to all GS-16's, or private attorneys or officials of comparable status. Therefore, this GS-16 candidate, even if he attains only 23 points—Better than Adequate, but not Outstanding—under the "voucher" part attains an aggregate score of 83 and passes. Yet, the GS-13 or the GS-14 under certain circumstances—or his counterpart in private practice—who is rated 27 points under the "vouchering" part—Outstanding—is failed since his score can only aggregate 77 points, 3 points less than the required 80 points.

The present system would appear to leave more to chance than to merit. A quick check of "outstanding" by a busy lawyer means success for one candidate, and anything less dooms him to failure. It is doubtful that the lawyer who checks "better than adequate" or "adequate"

^{6a} Apparently from the design of the voucher (see Appendix C) a Wide Variety of Experience With Problems National and International in Scope is equivalent to Outstanding but dealing with localized problems gets you An Adequate or Less than Adequate.

⁷ Information received from a temporary ALJ indicates that in his case substantially less than 10 vouchers were sent out and if all 20 names had been used his scores would have been very substantially higher. He independently sent out the vouchers to all 20 of the persons listed—judges, attorneys, etc. This material is in the subcommittee files available for study by Members and staff.

⁸ von Rinteln, 35 L.C.C. Practitioners Jrl. 14 (1967). This article gives a detailed explanation of the CSC rating system and, although written ten years ago, seems to accurately describe the present system.

intends to disqualify a candidate, and thereby deprive the Government of an opportunity to select many of the ablest lawyers. Finally, it is very doubtful that any two attorneys responding to a voucher define its terms the same way.

Some lawyers, however, are aware of the system and use it to the Commission's disadvantage. The lawyer who works in a Government agency, who has daily contact with his colleagues, who lunches with the hearing officer, who is constantly bombarded with requests for favors from the private sector, can let it be known he is considering becoming an administrative law judge and that a rating of "outstanding" is mandatory if he is to succeed. He is confident his friends and colleagues will not let him down. On the other hand, the busy attorney, who handles numerous cases before judges to whom he is only a name, and opposing counsels who are competing attorneys in the true sense, does not and cannot inform these people that he requires their cooperation to become an administrative law judge. This problem is particularly acute with temporary administrative law judges who are subject to "vouchering" by attorneys who have appeared before them in any of the roughly 200 cases they hear a year.

Ordeal by paper

The ponderous nature of the selection process has been brought out in the preceding pages. There is one additional element which was emphasized by former Chairman of the National Labor Relations Board, Edward B. Miller, in his provocative article, "The Tangled Path to an Administrative Judgeship" (Labor Law Journal, January 1974). He quotes the following from Announcement 318:

The applicant must also clearly establish that he has obtained, in the aggregate, the *full 2 years of administrative law or actual trial or judicial experience* required for eligibility, and that the time of obtaining this experience *satisfies the requirements* set forth under "Recency of Experience" above. The Commission does *not* accept the unsubstantiated claim of *any* applicant that he has obtained this administrative law or trial experience. In proof of his claim, *every* applicant must include in his application a list, *in chronological order*, of a *sufficient number of administrative law cases* in which he has participated or *court cases which he has prepared and tried, or heard*, to demonstrate *2 full years* (400 workdays) within the 7-year period immediately preceding the date of his application. He must show for every case so listed:

1. Title and citation.
2. Dates between which participation took place.
3. Brief statement of issues involved.
4. Regulatory body or court hearing case. Note: For each court so cited, indicate whether Federal, State, or local; extent of jurisdiction (limited or unlimited, original or appellate).
5. Number of workdays spent in handling case, and in what capacity, i.e., judge, attorney, etc.
6. Names and current addresses of—
 - (a) Hearing Officer of regulatory body or of judge who heard case

- (b) Co-counsel, if any
- (c) Opposing Counsel
- (d) Names of Counsel appearing in case if applicant claims qualifying experience in a judicial type position.

The applicant is also required to submit the details listed below regarding 2 of the cases referred to above which, in his opinion, are the most important ones in which he has participated. (If the applicant satisfies the administrative law, actual trial, or judicial requirements of this announcement by listing only one case, he may submit details on only that case).

1. The precise nature and extent of participation.
2. Full statement of issues involved and a description of the problem.
3. Outline of arguments made.
4. Summary of technical, economic, or other data presented, including sources, manner of analysis, and uses, written decisions or opinions, or other papers prepared by applicant in one case.
5. Briefs, Memoranda of Law.

Mr. Miller complains of the negative impact this requirement has on busy private attorneys and judges in applying for the register. The impact on a former SSI hearing examiner, who relies primarily on his disability adjudication experience, is even more horrendous. A really productive ALJ(T) might decide 250 cases a year and a list of 500 cases would be required. Surely there must be a better way to go about whatever is trying to be accomplished here.^{8a} This is another example of rigid Civil Service Commission procedures which have not been adjusted in a reasonable manner to meet the situation of the temporary ALJ's. Qualifying for the regular register may depend more on the persistence of the applicant and his tolerance for shuffling paper than on his ability to do the job.

Written Examination and Panel Interview; Veterans' Preference; Final Rating and Appointment

Although not generally known, these phases of administrative law judge qualification are not activated unless an applicant gets the qualifying 80 points. The written examination, in the words of Announcement 318, is a demonstration primarily "to test an applicant's ability to express himself clearly, concisely, and convincingly in a written decision." The written examinations are included in the files which are examined by the panels⁹ who conduct the oral interviews. These panels "consist of three persons specifically designated by the Commission for such purpose and for evaluating each applicant's qualifications" and will be conducted about a month after the written examination. The "panel" examines the whole file of the applicant—the vouchers, the written "test" decision, and so forth—conducts the

^{8a} In applying for the SSI hearing examiner position (GS-13) an identical listing was required for 210 workdays. As noted previously of the 78 temporary ALJ's and SSI hearing examiners rated by the CSC, 38 percent have already filed more than once for the GS-15 registers.

⁹ It is our understanding that these panels consist of a private practitioner—selected from a list submitted by the Administrative Law Section of the ABA—an administrative law judge not acquainted with the applicant, and an official of the Civil Service Commission.

face-to-face interview and then reaches a decision whether to add or subtract points to the score already established. The Director of the Office of Administrative Law Judge reserves the right to alter the "panel's" changes in the score to achieve "uniform results" throughout the Nation. He states that changing the panel scores is not commonplace, however. And then Announcement 318 states how the final rating is arrived at.

A final rating will be made by the Commission, based on a careful evaluation of the information furnished by the applicant with his application, information obtained in response to confidential inquiries, investigations, results of his demonstration of his ability to write a decision, and results of the oral interview, and on the final report of the special panels. At this time, applicants will be assigned points for veteran preference, in the cases of those who are entitled thereto in accordance with the provisions of title 5, United States Code 3309 and registers established.

However, just being on the register does not assure appointment to an administrative law judge position.¹⁰ The hiring agency—the Bureau of Hearings and Appeals—must make a request to the Civil Service Commission asking them to supply them with a list of persons on the register who have indicated a willingness to serve in the geographical area specified. (See appendix E for an example of a certificate.) The applicants for the register have indicated to the Commission whether they wish to serve in a specific area or areas, or throughout the United States.¹¹

Since the enactment of Public Law 202 in January, 1976 and up until April of this year, the BHA has only requested certificates for specified locations; i.e., Flint, Michigan; Charleston, West Virginia; Fargo, North Dakota, to mention a few. (All certificates during this period are on file with the committee staff.) In this situation the BHA usually receives from the Civil Service Commission three to six names from the register. BHA then contacts the listed individuals to ascertain whether they are interested in serving at the specified location. The BHA is then free to choose from the three individuals with the highest score who remain on the list—the so-called rule of three. If, however, a veteran with preference is on the list one cannot pick anyone without preference who is not above him on the list. A couple of times within the last two years the BHA has returned the certificates to the Commission without hiring anybody off of them. Appendix E is an illustration of a certificate which was returned because the BHA was unable to "reach" an ALJ temporary who was doing an effective job in the specific location and they did not need additional staff at that location.

Just within recent weeks—because of an increasing workload—the BHA has requested a certificate of eligibles from the Civil Service Commission to fill 50 ALJ positions in 28 locations. When it gets its certificates of eligibles from the Civil Service Commission the BHA

¹⁰ In appendix D, we have reproduced the GS-15 register as of January 1, 1976, the day before Public Law 202 was signed, and February 23, 1977, and the GS-16 register as of Feb. 23, 1977. The GS-15 register for February 23 is given with and without veterans' preference, which plays a very significant role in position on the register.

¹¹ Some Social Security administrative law judges stay on the GS-15 register for years even though they already have an appointment just so they can qualify for a job in a specified area. See No. 22 on GS-15 register.

will ascertain whether the listed individuals will take any, all, or some of the 28 locations. Then BHA will set up a selection procedure which in complexity resembles the NFL football draft whereby it will attempt to apply the "rule of three" and veterans preference to the 28 specific locations. It would appear that the BHA will have an extremely difficult time making anywhere near this number of appointments since the GS-15 register on February 22, 1977 numbered only 92.

The last time this multiarea appointment procedure was utilized was in late 1975 when the subcommittee was conducting its hearing on the appeals process. Mr. Dullea testified that he had supplied BHA with 120 names on the ALJ-15 register from which the BHA had stated it would try to hire 55 ALJ's in some 42 locations. (Hearings, p. 541) Only 24 ALJ's were appointed from this certificate. [Appendix G contains a list of applicants on the 1975 certificate with acceptable locations noted.]

Examination of the certificates and the ALJ registers for the last year and a half reveals that less than half of the persons listed on the register have appeared on certificates for specified geographic areas. Moreover, a great many of the individuals who appear on certificates subsequently state that they are not interested in appointment in the location. Some don't reply at all. In theory, an individual who declines an appointment twice is dropped from the register. The 1975 experience previously mentioned is a good illustration of this problem. Of over one hundred individuals on the ALJ register who were questioned as to their availability less than 50 stated that they would take an appointment in any one of 42 locations throughout the United States. Moreover, 16 of these individuals said only one location was acceptable. Locations included Atlanta, Birmingham, Boston, Cleveland, Dallas, Detroit, Houston, Los Angeles, Milwaukee, New Orleans, Phoenix, Pittsburgh, Portland, Providence, Richmond, San Francisco, in addition to scores of smaller cities.

Unsuccessful Attempts to Resolve the Problem

Selective certification

Staff does not believe that either the Social Security Administration, or the Subcommittee on Social Security for that matter, can be faulted on lack of initiative in attempting to deal with the present situation. Commissioner Cardwell's letter of July 1976 made some other suggestions which have not previously been alluded to. Mr. Cardwell, citing the House report on Public Law 202 that the requirement and procedures for placing candidates on the register for administrative law judge positions should "* * * be applied in a manner to effectively serve the needs of the Social Security program" suggested the establishment of a special register for Social Security administrative law judges. He stated:

The special register could be established with a fixed expiration date and with a 1-year specialized qualification requirement. Since the appointment of temporary administrative law judges terminate on December 31, 1978, the expiration date should probably be within a year subsequent thereto.

"Selective certification" has been used over the years by some regulatory agencies to hire administrative law judges where special skills, training, and experience is deemed necessary. Social Security has never previously requested it but the expertise required to apply medical and vocational factors in disability determination seems to add substance to this approach.¹²

Jerry L. Mashaw, Professor of Law, Yale Law School, has rather graphically described what is required when an ALJ makes a determination of disability:

Certainly the definition of "disability" in the Social Security Act requires that disability be the result of a determinable physical or mental impairment. But the question whether the complaining party is disabled often requires the decision maker to translate this medical impairment into functional limitations and to evaluate the effect of those functional limitations on the claimant's capacity to engage in substantial gainful activity, given his age, education, and work experience. Thus a procedure that begins with routine medical reports concerning clinical diagnosis and treatment becomes a highly judgmental process requiring at least the following additional determinations: (1) the degree to which disease or trauma has produced impairments, that is, abnormalities in the claimant's physical or mental structure; (2) the degree to which these impairments result in activity losses or restrictions, usually characterized as functional limitations; (3) the degree to which the claimant's impairments and functional limitations affect the required capacities for the performance of normal roles and activities, including analysis of attendant therapeutic limitations, environmental restrictions, energy reserve losses, and psychological overlays; (4) the interaction of the claimant's age, education, and prior work experience with his functional limitations and his response to them, and the effect of this combination of factors on his capacity for work available in the national economy. The importance of live testimony in this decision process, particularly by the claimant, has been recognized by several circuit courts of appeal. (University of Chicago Law Review, Fall 1976, pp. 41-42.)

Many commentators in administrative law believe that selective certification leads to in-breeding of an agency point of view into the administrative law judge corps. (A more favorable view of selective certification is contained in the von Rinteln article cited in footnote 8.) This criticism, however, would not seem valid as to temporary administrative law judges who, predominantly did not come from the "agency" that is the Social Security Administration. Commissioner Hampton turned down Mr. Cardwell's request for selective certification in the following manner:

In regard to special preference in certification, there has been available a substantial number of persons who have had a background in social security law (hearings and appeals

¹² It has been said by BHA officials that it takes about 9 months before a new hearing officer becomes fully effective and productive in disability cases.

analysts, members of the Appeals Council, attorneys and others in the regional offices). Despite this, the agency has not in the past deemed selective certification to be necessary. Further, the contents of your letter are insufficient to show that preferential treatment for this group of employees is warranted. In this connection, note has been taken of the fact that a large number of the hearings are conducted within relatively short period of time, that no Government lawyers appear and only a small percentage of the claimants are represented at disability hearings which are not of adversarial nature, and that the majority of administrative law judge hearings are disposed of by a short form decision.

Special attention is called to the last sentence of this excerpt. Although it would seem to have little relevancy to the "selective certification" issue it rather dramatically and gratuitously reveals the bias of the Civil Service Commission—or more particularly the Office of Administrative Law Judge—in evaluating the nature of the work of both temporary and regular Social Security ALJ's. [See also testimony of Civil Service Commission in 1975 hearings, appendix A, pp. 29-30.]

This same bias shouts at one from the opening sentences of Announcement 318:

Decisions, based upon hearings presided over by persons appointed as a result of this examination, *will range in scope and importance from those determining the rights and liabilities of individual citizens to those which will deeply affect the economic welfare of entire regions of the United States.* (Italics, ours.)

Converting appointments by regulation

On August 23, 1976, the Director of the Bureau of Hearings and Appeals, Robert L. Trachtenberg, requested that the entire temporary ALJ corps be given permanent appointments as regular ALJ and classified as GS-15 under the provisions of a civil service regulation (5 CFR § 930.203(d)), which governs the appointment of newly classified administrative law judge positions. A detailed justification for the BHA request was transmitted to the Civil Service Commission on November 15. On January 4, 1977, the Commission rejected the request. [The letters of Mr. Trachtenberg and Commissioner Hampton's reply are included in appendix F.]

Commissioner Hampton placed great emphasis on the legislative history of Public Law 202, in rejecting the BHA's request. Although noting that there seems to be a pervasive tendency in Commissioner Hampton to have great reverence for the legislative history of Public Law 202 when it suits his purposes, while on most other occasions totally disregarding it, the staff thinks the more legally sustainable approach to the immediate problem is to pass legislation of the nature of H.R. 5723. This legislation will accomplish precisely what the Bureau of Hearings and Appeals has unsuccessfully tried to effectuate by regulation.

Standards for Qualifications of ALJ's and CSC Responsibility in Dealing With Social Security Administration Needs

Some commentators have suggested that these standards and their elaboration in the civil service announcement reflect an overemphasis of the needs of the "regulatory" agencies. Perhaps they are a reflection of Civil Service Commission thinking that downgrades social security adjudications as bearing "little resemblance to the full-blown adversarial proceeding conducted by administrative law judges, under the Administrative Procedure Act, in regulatory agencies." However, Congress has positively declared that first-class justice under the APA will be rendered for all social security and SSI claimants. Now that two-thirds of the ALJ corps in the Federal Government are working on these types of adjudications the Civil Service Commission should reexamine its ALJ appointment standards to see if they are relevant to the positions that have to be filled. Questions raised by members of the subcommittee and in staff documents during the consideration of Public Law 202 appear to have had no effect.

These qualification standards have not been changed for about 10 years and from indications at the recent meeting of the Civil Service Commission Advisory Committee on ALJ's little movement or consideration of change is currently contemplated.

Mr. Edwin Yourman, a witness at the September 1975 hearing, completed a report for the Social Security Administration¹³ on the hearings and appeals process which questions whether the limitation of "regulatory" or qualifying administrative law experience described in the civil service announcement for ALJ's is of "rational relevance," as required by regulation (5 CFR 3000.103(b)), for the selection of ALJ's for beneficiary-type hearings. He believes that "a different and broader concept of qualifying experience for those recruited as ALJ's to conduct SSA beneficiary hearings would more clearly comply with CSC regulations. The requirement of 7 years of experience in the trial or adjudication of cases, without permitting the substitution or other experience for a portion of the period, seems excessive." He also stated that the CSC office of ALJ's will not always certify names for needed SSA ALJ positions and questions whether the Civil Service Commission has authority to exercise this control.¹⁴ He cites 5 U.S.C. 3105 and *Ramspeck v. Federal Trial Examiners Conference* (1953), 345 U.S. 128, where the Supreme Court, in another connection, stated that the APA "does not reduce the responsibility of the (administrative) agency to see that it has a sufficient number of competent examiners to handle its business properly." Other distinguished commentators have argued that in the recent APA-SSI dispute, that once the Department of Health, Education, and Welfare had determined that the APA was applicable the Civil Service Commission should have provided the registers requested in that it has only ministerial responsibility in this area.¹⁵ Yourman would retain

¹³ Recent Studies Relevant to the Disability Hearings and Appeals Crisis, Subcommittee print, 1975.

¹⁴ At the present time, the Civil Service Commission will not issue blanket certificates to BHA but they must request them for specific geographic areas.

¹⁵ See study of Victor G. Rosenblum, professor of law, Northwestern University, for the Administrative Conference, Recent Studies Relevant to the Disability Hearings and Appeals Crisis, Subcommittee print, December 1975, p. 227. See also appendix A, pp. 27-28.

Civil Service supervision of ALJ's to avoid actual or potential agency control but suggests the establishment of a separate register for ALJ's which will provide personnel for beneficiary hearings. He states:

* * * There are sufficient differences between regulatory and beneficiary hearings to call for careful development of separate sets of qualification standards. Thus the personality, experience and skill necessary to preside over and evaluate the issues in a complex case involving trade or transportation economics, in which several parties and the government are represented by highly specialized counsel, bears little resemblance to the characteristics needed for a social security beneficiary hearing, where it is essential that the presiding officer's actions reassure the claimant that his case will be fully presented and considered. The economic case seems to call for an aloofness from involvement with either side, while a beneficiary hearing requires a warm and sympathetic approach and even a certain involvement to make sure that the claimant's case has been fully developed and presented.

Robert G. Dixon, Jr., another witness at the September hearing, has written in a similar vein "that the most creative thought is needed to work out models for future welfare adjudication, which has—and should—a distinctively different ethic from the hard-nosed economic regulatory adjudication ethic which produced the APA in the first place." Professor Dixon, of course, was speaking in a broader context than Mr. Yourman who is only speaking of separate registers.

As a caveat Mr. Yourman states that "we make our recommendation on the assumption that the ALJ's selected to conduct beneficiary hearings will not have a second-class status, and that standards and recruitment for this type of ALJ will be adequate to insure a register of quality applicants."

One member of the CSC Advisory Committee at the February 25, 1977, meeting stated that he sees the GS-15 Social Security ALJ as a good "farm system" from which the regulatory agencies can call up the most accomplished players. Needless to say, this type of thinking is deeply resented by career Social Security ALJ's¹⁶ who believe the Civil Service Commission already treats them as second-class citizens in grade classification.

¹⁶ Some individuals undoubtedly become Social Security ALJ's with the intention of getting GS-16 ALJ regulatory agency appointments at the earliest opportunity. See GS-16 register for a great number of Social Security ALJ's applicants. One of Mr. Hampton's last acts was to send a request to Congress for 100 GS-16 ALJ's for the regulatory agencies.

APPENDIXES

Appendix A. Status of the Supplemental Security Income (SSI) Program Under the Administrative Procedure Act (APA) Historical Review

This time-consuming controversy arose in 1972-73 when the Civil Service Commission ruled that the APA was not applicable to SSI and that a special type of hearing officer to hear only this type of case should be recruited and hired by HEW. The dispute was resolved by Public Law 94-202 which was signed on January 2, 1976, and clearly stated that Congress wanted the protections of the APA applicable to SSI (title XVI). During this period, however, the appointment of necessary hearing officers was delayed and the Bureau of Hearings and Appeals was denied needed flexibility to deal with the flood of disability appeals.

Public Law 92-603, which established the SSI program, was approved by the President on October 30, 1972. On November 16, 1972, the Department of Health, Education, and Welfare requested that the Civil Service Commission establish registers for administrative law judges to hear SSI cases. The Department's request touched off an incredible series of developments.

The issue was quickly joined when on November 24, 1972, the Civil Service Commission's Office of Administrative Law Judges declined to establish registers or classify such positions on the grounds that the Social Security Act did not require that SSI hearings be held under the Administrative Procedure Act and therefore the Commission was powerless to act. The dispute was unresolved for the next 13 months with: (1) numerous exchanges of letters between HEW and the Commission, (2) an opinion of the Office of Legal Counsel, Department of Justice, in the summer of 1973, (3) an appeal by Secretary Weinberger to the Commission citing "a crisis * * * in HEW's preparation to implement the new supplemental income program * * *" in October 1973, (4) a response from the Chairman of the Civil Service Commission in late October which in essence granted the HEW request to establish registers for administrative law judges, (5) in December 1973 a hearing before the full Commission called at the request of several "model agency" ALJ's, and (6) a reversal of the decision made in October by the Chairman.¹ The decision of the full

¹ On October 30, 1973, upon recommendation of the Commission's Deputy Executive Director, Chairman Hampton dispatched a letter to Secretary Weinberger saying the Commission was ready to establish ALJ positions for SSI under the APA and to initiate a recruitment program. At this stage representatives of three ALJ organizations—the Conference of Administrative Law Judges, the Federal Administrative Law Judges Conference, and the ALJ Committee of the Federal Bar Association—protested the Chairman's decision and demanded a reconsideration by the full Commission and an opportunity to be heard. This hearing took place on December 3, 1973. Judge Ohlbaum of the NLRB presented representative views of those ALJ's who opposed having the APA apply to SSI. The minutes of the meeting show that:

"He said the Federal Government has two kinds of ALJs: those in the 'model agencies' such as NLRB, FCC, FTC, etc., who are full APA instruments in that under APA they make decisions awarding large sums of money, radio and TV licenses, rights-of-way, etc. Then, he said, there is the 'other kind'—namely the ALJs under the SSA program whose cases are vastly different from those handled in the model agencies. He said the SSA ALJs review files and rule on the record unless the claimant submits a request for a hearing. A key distinction, he said, is that under SSA, the Government is never represented. He said it was a mistake long ago when the decision was made that hearings would be presided over by ALJs and that SSI ALJ authorization would further compound the 'classification error.'"

Commission was dispatched to HEW on the 14th of December 1973 and essentially carried out the original letter of rejection sent to HEW by the Civil Service Commission over a year previously. The decision stated that the Commission had concluded that administrative law judges were not required to preside over SSI hearings because the program is not under the APA. Therefore, the Secretary of HEW should go ahead under his own appointing authority to appoint hearings examiners at GS-13 and an appropriate number of supervisory hearings examiners at GS-14. In answer to the Department's immediate need, the Commission stated that regulations promulgated pursuant to the Administrative Procedure Act would allow the temporary assignment (for up to 120 days) of regular administrative law judges (GS-15) to SSI cases where this was not inconsistent with their regularly assigned duties.

LEGISLATIVE BACKGROUND: 1972 AMENDMENTS

The Ways and Means Committee has consistently maintained that the APA applies to Social Security title II and title XVIII cases.

Although most of the courts which have dealt with the issue have believed that the APA does apply, the circuit court in the *Perales* case found otherwise. The Supreme Court, however, found it unnecessary to decide the issue. In *Perales* the claimant was asserting, and was joined in this by an amicus brief filed by the American Bar Association, that the issues before the court as to hearsay evidence and the right of cross-examination, as well as other procedures relating to administrative hearings for disability and other social security claims, were governed by the APA rather than the Social Security Act. The administration's brief argued that the Social Security Act provisions were not inconsistent with the provisions of the APA and concluded:

Consequently, as the American Bar Association's brief recognizes, the Secretary's exercise of his authority under the Social Security Act does not conflict with the provisions of the Administrative Procedure Act. While the court below held the Administrative Procedure Act inapplicable to the conduct of hearings under the Social Security Act on the ground that 5 U.S.C. 556(b) states that the entire administrative procedure subchapter (5 U.S.C. 551-559) "does not supersede the conduct of specified classes of proceedings, in whole or in part by or before boards or other employees specifically provided for by or designated under statute" (App. 42), there is no occasion for this Court here to consider the correctness of that broad ruling.

The Supreme Court generally adopted the administration's argument stating:

We need not decide whether the APA has general application to social security disability claims, for the social security administrative procedure does not vary from that prescribed by the APA.²

² *Richardson v. Perales* (1971) 402 U.S. 387.

The legislative history of the law establishing the SSI program makes it clear that the committee intended that the hearings conducted under the new program are to be under the APA but that the Secretary would be given the discretionary authority to appoint examiners who could not fully meet the rather stringent requirements of adjudication or court experience for appointment as a hearing examiner (now called an administrative law judge) under the APA. In the confidential print prepared by HEW and Ways and Means staff (February 8, 1971) which described proposed administration amendments to H.R. 1 the following appears:

Under the provisions of H.R. 1, all hearing examiners must be qualified under the standards in the Administrative Procedure Act.

Change proposed by the Department

Hearings would be conducted in accordance with procedures of the APA but examiners would not have to be appointed under the conditions set forth in the act.

Rationale

Many qualified persons experienced in State welfare determinations may not meet the specific requirements for hearing examiners under the APA standards, but will be an excellent source of examiners to hear issues arising under the Family Assistance Act.

The committee report also reflects this view:

Your committee recognizes that many qualified persons who would be capable of hearing issues that arise under the program may not meet the specific requirements for appointment as hearing examiners under the Administrative Procedure Act, but might be a good source of examiners to hear issues arising under the program. Therefore under your committee's bill the Secretary would establish the requirements to be used in selecting examiners. Although the examiners would not be selected under the conditions set forth in the Administrative Procedure Act, full hearings would otherwise be conducted in accordance with the requirements of such act which include, for example, the right to submit evidence, to cross-examine witnesses, to be heard by an impartial examiner and to a decision based on the hearing record.³

It is important to keep in mind that the main focus of the Committee on Ways and Means when this action was being considered was on the proposed family assistance plan, which would have required an administrative appeals mechanism of far greater magnitude than the adult assistance program. Parallel language applicable to the adult assistance program was contained in H.R. 1 and the accompanying committee report.

The SSI provision (sec. 1631(c)) required the Secretary to provide reasonable notice and opportunity for a hearing to any individual who is dissatisfied with the determination made on his claim for benefits.

³ H. Rept. No. 92-231.

The final determination of the Secretary (after a hearing) was subject to judicial review as provided for old age, survivor's, and disability insurance claims in section 605(g) of the Social Security Act, except that under the SSI program "the determination of the Secretary after such hearing as to any fact shall be final and conclusive and not subject to review by the court." Section 1631(d)(2), the crucial provision, provides:

To the extent the Secretary finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners [now titled administrative law judges] in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.

Title XVI establishing SSI as finally enacted was a redesignation of title XX of the House-passed version of H.R. 1. The provisions applicable to the SSI program were identical in both the House and Senate versions. The Senate report, however, did not contain the Ways and Means language previously cited. Evidence of the congressional intent as to the applicability of the APA to SSI hearings is found in the comment of Chairman Mills when he specifically stated on the Floor:

The hearings to which the bill refers would be subject to the Administrative Procedure Act and all the safeguards for a fair and equitable hearing in the act would apply to the hearing.⁴

Mr. Carey immediately thereafter declared:

The gentlemen pointed out that the Administrative Procedure Act does cover the review of benefits under this bill. It has been erroneously contended it did not.

Mr. Martin, the committee's chief counsel, summed up the legislative history on this question in a letter dated January 24, 1973, to Mr. Dale Cook, Director, Bureau of Hearings and Appeals, wherein he states that this section deals exclusively with the authority of the Secretary to appoint hearing examiners and that this provision in no way vitiates the explicit language of the committee report that all hearings are to be conducted in accordance with the APA. Mr. Martin further stated that the official legislative record on H.R. 1 reflects that no member of the committee expressed any contrary view.

The Civil Service Commission based its final decision on this matter primarily on the opinion of its General Counsel, Anthony B. Mondello, bolstered to some degree by a memorandum of the Office of Legal Counsel, Department of Justice.⁵ The crux of Mondello's argument was that if Congress merely had wanted to waive the standards for appointment of ALJ's under the APA the statute should have specifically referred to the section in title V which governs such appointments, namely section 3105 (this section which outlines the specific

⁴ 117 Congressional Record at 5658.

⁵ At the time, Robert G. Dixon was serving as Assistant Attorney General, Office of Legal Counsel. Mr. Dixon seems to favor the Civil Service Commission interpretation but indicates that the safest "legal" course of action is to follow the course recommended by HEW—e.g., a hearing process containing all the APA safeguards and conducted by an APA administrative law judge. This, in his view, was the only sure guarantee against subsequent judicial action voiding thousands of hearings if APA requirements for both hearings and those presiding at the hearings are not followed.

qualifications for ALJ's was codified outside the other operative sections of the APA which are contained in "subchapter II of chapter 5 of Title 5, United States Code"). Granted that perhaps it would have been better drafted by a reference to section 3105, the intent of the provision seems to be quite clear from the legislative history. Mr. Mondello, however, dismissed these considerations rather summarily by stating:

There is some further reference to the applicability of the APA in the House floor debates, * * * but one must be wary of basing Congressional intent on the statement of individual members of only one of the two Houses of the legislature, particularly where even the more broadly based committee reports are ambiguous on the same issue.

Prof. Victor G. Rosenblum of Northwestern University Law School has written a detailed analysis of the APA-SSI disputes for the Administrative Conference. He concludes that the legal arguments each way are almost equally persuasive and states:

If two contrasting but tillable sets of common ground to warrant alternative decisions on the applicability of the APA to SSI benefits proceedings can be found in the legislative history, legal precedents and pragmatic factors pertaining to the legislation, how is the choice to be made?

If I were legislator, I would decide unequivocally that the APA applies to SSI cases, since I would be free to vote my policy preferences as long as those preferences do not conflict with constitutional requirements.

If I were a judge, my own conceptions of public policy should be immaterial; I would have to be guided predominantly by the norms of construction and rulings of the applicable legal precedents. Those rulings and norms would require denial of a claim by SSI applicants that HEW violated the SSI and APA statutes by failing to accord them a hearing before § 3105 ALJ's governed by § 556 and § 557 of the APA. If, on the other hand, HEW had insisted upon and the Civil Service Commission had established a § 3105 register for SSI ALJ's and suit were brought to challenge this, I would have to rule against the challenge and find that the administrators acted properly within the scope of their discretion.

If I were an HEW or CSC administrator, I would utilize the discretionary authority conferred on me by statute and case law to recognize and insist upon APA applicability in SSI hearings, confident in the belief that the legal precedents would uphold my decision. Those precedents gear the ultimate judicial construction of the statute, when the meaning of the legislation is not otherwise clear and consistent, to the perceptions and allowable choices of the officials charged with responsibility for administering the statute.

Professor Rosenblum amplified this last point and declared that the Civil Service Commission should have followed the HEW interpretation that the APA applied to SSI hearings:

That the Commission ultimately chose to follow interpretations by officials of ALJ organizations and its own general

counsel rather than the considered judgment of the agency charged with responsibility for administration of the statute reflects no credit on the Commission as a matter of law.

As a matter of policy, the Commission's decision had, if anything, less justification than its perception of the law. It might not be unreasonable to expect the Civil Service Commission, as guardian of the integrity and impartiality of the Federal career service, to welcome an agency's interpretation of the law that divests that agency of power to wield undue influence over the decisions of hearing officers through control of their evaluation and tenure. That the CSC should instead claim inability to respond to the agency's pleas for help with its administrative "crisis" seems, at best, an inversion of Commission priorities. SSA Commissioner Hess should have been listened to more carefully when he argued that it was sound public policy "that millions of individual Americans who have benefit rights under the various social security programs and under supplemental security income program and who have been guaranteed due process shall have access to a system of hearings with safeguards equal to those in hearings afforded corporate claimants in the exercise of claims for property rights." Hess cited other pragmatic factors as well, including "the interrelated nature of all of the social security appeals workloads," the "unity of process which makes it possible to staff and manage a voluminous and complex workload of this kind on a highly decentralized basis" and the need for "flexibility in assigning and reassigning GS-15 administrative law judges already employed so as to efficiently handle the most difficult of the workloads in the field."

Chairman Hampton's decisional letter of December 14 made no effort to counter such policy arguments but insisted that, since—in its view—the pertinent provisions of the SSI statute do not *require* the appointment of ALJ's "the Commission is unable to comply with your request and the statement that the Commission would do so as a matter of policy in my letter of October 30, 1973, must be rescinded." The Commission's policy was, thus, to ignore policy arguments and to formulate a more restricted view of what the SSI and APA statutes do and do not require or authorize than did even the Assistant Attorney General. With all deference to the Commission's recognized expertise and proven record in protecting the integrity of our Civil Service System, it is difficult to conceive of how the integrity of the career service could be enhanced or served at all by ignoring policy considerations in the SSI matter and misconstruing the applicable legal precedents. (Pp. 220-221, 229-230, Recent Studies Relevant to the Disability Hearing and Appeals Crisis, Subcommittee print. December 1975.)

LEGISLATIVE BACKGROUND—PUBLIC LAW 94-202

During the last half of 1975, the Subcommittee on Social Security, the full Committee on Ways and Means, and ultimately the Congress itself dealt again with the issue of the coverage of SSI hearing officers

under the APA. Extensive hearings were held in which all parties to the dispute participated, in addition to invited experts in administrative law. Hearings on Delays in Social Security Appeals, September 19, 26; October 3 and 20, 1975.

The great preponderance of the testimony at the hearings endorsed the coverage of SSI under the APA in the same way as Social Security and some of the invited experts in administrative law indicated that such APA coverage did not require putting the appeals process in a "judicial straight jacket." Civil Service Commission opposition, however, did not moderate then or later as indicated by the following colloquy between Congressman James Jones and Civil Service Commissioner Hampton and the Director of the Office of Administrative Law Judges, Mr. Charles Dullea:

Mr. JONES. Why does the Civil Service object to the (Social Security) ALJ's?

Mr. HAMPTON. Mr. Dullea has the history. I would like him to testify.

Mr. DULLEA. There has always been a substantial question about the application of this high-level judicial system of the types of cases handled in Social Security.

The paper I gave Mr. Archer, which has been made a part of the record, speaks to this. [See p. 528 of hearing.]

I think of two things that probably we have not paid much attention to, and, if I may, I would like to quote from a study, one of the very critical studies that led to the enactment of the APA.

This was the study of the Attorney General's Committee on Administrative Procedure, 1941.

I think what they said then probably has relevancy today:

"In the field of benefactions . . . which has broadened with the years, the administrative determinations, though made after a process of adjudication, are obviously not part of any program of control or regulation, but are merely ascertainties of entitlement to Federal gifts."

Included in the latter category were programs dealing with pensions, insurance, compensation, the disbursement of monetary benefits, aid, old-age assistance programs, et cetera.

The other comment I would like to make from the same study goes along the following lines:

"This does not mean, however, that formality is a prerequisite. In cases such as those coming before the Social Security Board, the Veterans Administration, and the Railroad Retirement Board, strict formality would hinder the claimants, who often represent themselves and who should be encouraged to tell their own stories as simply and naturally as possible. There, the atmosphere of sympathetic conversation is best conducive to proper administration. On the other hand, formality is advisable in many contested cases."

Actually, the proceedings before the Social Security Administration are not contests, they are nonadversary.

The Government never appears, and the study recently conducted by the Commission indicates probably 70 percent of the claimants are not represented.

This is a whole different ball game than what applies in an adversary proceeding, in the regulatory agencies, FCC, FTC.

In November, the Committee on Ways and Means approved the subcommittee bill (H.R. 10727) which eliminated all distinctions in the nature of hearings and hearing officers under the social security and SSI programs. It authorized the temporary ALJ's to hear cases under titles II, XVI, and XVIII, notwithstanding the fact that these hearing officers had not been appointed under section 3105 of title V (the appointment section of the APA), but required that they, and the hearings they would conduct, would be subject to all other provisions of the APA. The APA provisions were specifically listed in the committee report with the following declaration of their applicability also to regular ALJ's and their hearings:

Moreover, the specific enumeration of these provisions of the APA as applicable to the temporary ALJ's should not be interpreted to make these adversary proceedings or otherwise "judicialize" procedures under title II, XVI, and XVIII. The enumeration of these provisions also should in no way suggest that they are not applicable to the regular social security ALJ's. Your committee and the Department of HEW consistently over the years have declared that the language in title II (and under the provisions of this bill, title XVI) of the Social Security Act call for "on-the-record" hearings which invoke the provisions of the Administrative Procedure Act. (H.Rept. 94-679.)

Similar language appeared in the report of the Committee on Finance. The bill passed the House by a vote of 370 to 0 and was signed into law on January 2, 1976.

**Appendix B. Announcement No. 318 – Civil Service Commission
Administrative Law Judge – Grades GS-15 and GS-16**

ANNOUNCEMENT NO. 318

The United States Civil Service Commission announces an examination for

ADMINISTRATIVE LAW JUDGE



Positions in various
Federal regulatory bodies
in Washington, D.C. and
throughout the United States

See Page 17 for Information
on Where and When to File.

ADMINISTRATIVE LAW JUDGE

Grades GS-15 and GS-16

The title of Hearing Examiner was changed to Administrative Law Judge on August 19, 1972. Since the provisions of this Announcement have not otherwise been changed, the title of Hearing Examiner used hereinafter is synonymous with Administrative Law Judge.

*Grades of
Administrative Law Judge
Positions Covered
by the
Announcement*

	<i>Salary Range</i>
GS-15	\$31,308—\$40,705*
GS-16	\$36,338—\$46,028*

*Section 5306, Title 5, U. S. Code, limits basic pay to that of Level V of the Executive Schedule. As of the issue date of this announcement, that rate is \$37,800.

INTRODUCTORY STATEMENT

Administrative Law Judges are employed by a wide variety of Federal regulatory bodies. Their positions are located in Washington, D.C., and throughout the United States.

The cases over which they preside vary in subject matter and in the nature of the causes involved.

In general, an Administrative Law Judge presides at formal hearings required by statute, and he may be required to make recommended or initial decisions on the basis of the record. His normal duties are to:

1. Administer oaths and affirmations.
2. Issue subpoenas authorized by law.
3. Rule upon offers of proof and receive relevant evidence.
4. Take or cause the taking of depositions whenever the ends of justice will be served thereby.
5. Regulate the course of the hearing.
6. Hold pre-hearing conferences for the settlement or simplification of the issues.
7. Dispose of procedural requests or similar matters.
8. Question witnesses, if necessary or desirable.
9. Consider the facts in the record and arguments and contentions made, or questions involved.
10. Determine credibility and make findings of fact and conclusions of law.
11. Recommend decisions or make initial decisions on the basis of reliable, probative, and substantial evidence on the record.
12. Take any actions authorized by agency rule consistent with the provisions of Title 5, United States Code.

Reissued December 1976

Hearing Examiners may also be required to perform additional duties not inconsistent with their duties as Hearing Examiners.

A person may become a Hearing Examiner only by appointment from the Hearing Examiner register established as the result of a competitive examination. The Hearing Examiner register is used only for appointments to Hearing Examiner positions. There is no probationary period to be served. A Hearing Examiner position may be filled by appointment from the register, or by the reinstatement, reassignment, transfer, or promotion of a person who has formerly received an appointment from the Hearing Examiner register. A Hearing Examiner is removable by the agency in which he is employed only for good cause established and determined by the U.S. Civil Service Commission after opportunity for hearing and upon the record thereof.

Decisions, based upon hearings presided over by persons appointed as a result of this examination, will range in scope and importance from those determining the rights and liabilities of individual citizens to those which will deeply affect the economic welfare of entire regions of the United States. For this reason, the United States Government is vitally interested in insuring that only the very best qualified applicants in this examination receive appointments.

The applicant should read with care this examination announcement in its entirety before he starts the preparation of his application. He should appreciate that, just as he is required to do in the advocacy of his cause at the bar, *he must fully establish that his application clearly satisfies all the examination standards, in full accordance with the procedural requirements set forth below.*

REQUIREMENTS

Quality of Experience

An applicant must have had progressively responsible experience which demonstrates his ability to conduct hearings in a dignified, orderly, and impartial manner; determine credibility of witnesses; sift and analyze evidence; apply agency and court decisions; prepare clear and concise statements of fact, law, and order; and exercise sound judgment. Finally, an applicant must conclusively demonstrate that he has the judicial temperament and poise required for successful performance in a judicial or quasi-judicial position.

More specifically, the following rating factors are considered in the determination of an applicant's eligibility:

1. Complexity, responsibility, variety, and difficulty of qualifying experience.
2. Ability to analyze and evaluate evidence.
3. Ability to interpret and apply laws, rules, regulations, and legal precedent.
4. Ability to write clearly and concisely statements of fact and law, recommendations, and orders.
5. Ability to secure facts from individuals through observation and interviews under difficult conditions.
6. Ability to handle difficult situations when presenting or preparing cases.
7. Ability to preside at and control meetings, conferences, or hearings.
8. Ability to make independent decisions in important matters.
9. Ability to be objective and free from influence of any kind.
10. Professional standing enjoyed by the applicant among the members of his profession.
11. Knowledge and experience in technical subject-matter fields.
12. Demonstrated judicial temperament and poise.

Qualifying Experience

An applicant, at the time of filing must be, and for a period of at least 7 years prior thereto must have been, duly licensed and authorized to practice as an attorney under the laws of a State or the District of Columbia, the Commonwealth of Puerto Rico, or any territorial court established under the Constitution. (This requirement, however, will not be applied in acting on *noncompetitive* actions involving individuals who have already received appointments as Hearing Examiner in the Federal service from the competitive register.) In addition, an applicant must clearly establish that he has had, in the aggregate, at least 7 years of experience in one or more of the categories listed below:

- A. Experience as judge, master, or referee of a court of record; *or*
 - B. Experience as the head (or one of the heads) of a governmental regulatory body, responsible for (1) conducting, or supervising the conduct of, formal hearings and (2) making decisions on the basis of the record of such hearings; *or*
 - C. Experience in a governmental regulatory body as an officer or employee presiding over formal hearings and making or recommending decisions on the basis of the record of such hearings; *or*
 - D. Experience in the preparation of cases for, or their presentation at formal hearings conducted by governmental regulatory bodies or court proceedings relating thereto (an applicant will receive credit for participation in the preparation of a case only if he shows that he was either solely or jointly responsible for determining whether the preparatory work is acceptable for use); *or*
 - E. Experience in the preparation of cases for and their presentation at trial in courts of record of unlimited and original jurisdiction or the preparation and presentation of appeals therefrom; *or*
 - F. Experience in the active professional supervision and direction of subordinates engaged in functions described in Category D above; *or*
 - G. Experience as a responsible official in a governmental regulatory body, whose duties require him to (1) review, analyze, evaluate, and recommend action to be taken by the head (or heads) of the body on decisions or recommended decisions on cases made by hearing officers on the basis of the record of formal hearings, or (2) render responsible assistance to the head (or heads) of the body in the preparation for, or hearing of, cases coming for a formal hearing before the head (or heads) of the body, or in the preparation of decisions by the head (or heads) of the body on such cases.
- Experience in cases in governmental bodies whose practices and procedures are not in substantial accord with the administrative procedure provisions in subchapter II of Chapter 5 of Title 5, United States Code, is *not* qualifying.

Qualifying experience, therefore, consists of responsible participation in the preparation, presentation, or hearing of formal cases in governmental regulatory bodies or court proceedings relating thereto, or actual participation in the preparation and trial of cases in courts of record of unlimited and original jurisdiction, or the preparation and presentation of appeals therefrom, or in the hearing of such cases. Only trial experience gained in courts of record of unlimited and original jurisdiction or the preparation and presentation of appeals therefrom involving cases other than routine misdemeanors, probate, domestic relations, minor tort matters, and cases of a similar nature will be accepted as qualifying.

In addition, there are other types of experience not considered qualifying. Listed below are the titles of the principal types of positions in which qualifying experience is not obtained:

1. Investigator, under any job title.

2. Adjudicator.
3. Rating Specialist.
4. Claims Reviewer.
5. Insurance Adjuster.
6. Conferee.
7. State Unemployment Insurance Supervisor.
8. Arbitrator.
9. Mediator.
10. Moderator.
11. Teacher or Professor.
12. Hearing Officer in informal or conference proceedings.
13. Clerk of Court.
14. Legal Consultant.
15. Officer of any Court not of record.
16. Contract Officer.

Administrative Law or Trial Experience.

The applicant must show that, in the aggregate, at least 2 of the 7 years of experience described under "Qualifying Experience" above, were in the field of administrative law, or in the actual preparation *and* trial of cases in courts of original and unlimited jurisdiction or the preparation and presentation of appeals therefrom, or in the hearing of such cases.

For the purpose of this examination, the field of administrative law consists of:

1. Formal proceedings before Federal regulatory bodies, or
2. Formal proceedings before State or local regulatory bodies, involving issues fully comparable to those before Federal regulatory bodies, or
3. Actions in courts of record involving reviews or appeals from, or enforcement of, the decisions made on these formal proceedings by regulatory bodies, or
4. Injunctive proceedings brought in a court of record relating to a formal proceeding or a prospective formal proceeding before a Federal regulatory body, or
5. Injunctive proceedings brought in a court of record relating to a formal proceeding or a prospective formal proceeding before a State or local regulatory body.
6. Actions in courts of record involving issues fully comparable to those in formal proceedings before Federal regulatory bodies, or in fully comparable formal proceedings before State or local regulatory bodies.

The applicant must show clearly that he gained this experience in one or more of the capacities described in categories A through G under "Qualifying Experience" above.

Principal types of cases considered comparable to those coming before Federal regulatory bodies are shown on following page:

Cases involving the approval or prescription of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or marketing or other practices.

Examples:

Cases involving reasonable rates for transportation or other services of common carriers or industries subject to regulations.

Cases involving purchases, leases, mergers, consolidations, reorganizations, recapitulations, integrations, or financing of common carriers or public utilities.

Cases involving valuations, reproduction costs, and fair rate of return on capital of a common carrier or public utility.

Cases involving the issuance of regulations fixing and establishing a reasonable standard of identity for food.

Cases involving prosecution or defense of alleged violations of public laws or regulations of public bodies respecting labor, agriculture, political activity, trade, or commerce, including money claims arising therefrom or declaratory proceedings.

Examples:

Cases involving violations of or noncompliance with laws, rules, and orders pertaining to the regulation of public utilities or other entities, or to labor, trade, or agriculture.

Cases involving charges of unfair trade or labor practices.

Cases involving alleged violations of the postal fraud, lottery and antiobscenity statutes.

Cases involving participation of Government employees in prohibited political activity.

Cases involving civil rights matters.

Cases involving antitrust matters.

Cases involving admiralty matters.

Cases involving the grant, revocation, or amendment of a public license (other than those involving common occupations), permit, certificate, approval, registration, charter, or membership, involving difficult and complex issues of fact or law.

Examples:

Cases involving revocation, suspension, or annulment of licenses of air pilots, merchant mariners, distilleries, wineries, or of common carriers or public utilities.

Cases involving the grant or revocation of licenses for nuclear production and utilization facilities.

Cases involving the grant or annulment of licenses relating to the use or disposition of public lands and resources.

Cases involving the licensing, financing, and regulation of investment and lending practices of business investment companies.

Cases involving denial, suspension, or revocation of a certificate of registration of any person who recruits, solicits, hires, furnishes, or transports migrant workers for farm employment.

Cases involving the grant, denial, or recovery of money payments or other benefits upon a hearing required by law.

Examples:

Cases involving claims for old age and survivors insurance benefits, the settlement of estates of Indians, or ownership of vested property.

Cases involving disability allowances, insurance claims, or other privileges.

In determining whether a case which comes before a State or local regulatory body is comparable to one coming before a Federal regulatory body, a direct comparison is made of the subject matter and causes in the case with the subject matter and causes of the cases which come for hearing before Federal regulatory bodies. For example, interstate transportation rate cases come before the Interstate Commerce Commission; intrastate transportation rate cases which come before State regulatory bodies and local transportation rate cases which come before local regulatory bodies are cases comparable to those coming before the Interstate Commerce Commission. Participation in such State or local cases, therefore, will constitute administrative law experience as defined above.

However, participation in formal hearings accorded employees of some State governments on the basis of charges brought against them will not constitute administrative law experience, since these cases are not formal proceedings in the Federal service.

Recency of Experience

In order to establish eligibility, an applicant must clearly establish that he has acquired, in the aggregate, 2 years of experience in the field of administrative law, as described above, or in the actual preparation *and* trial of cases in courts of original and unlimited jurisdiction or the preparation *and* presentation of appeals therefrom, or in the hearing of such cases, within the 7-year period immediately preceding the date of his application.

Level of Qualifying Experience

The grade of Hearing Examiner position for which an applicant is considered qualified will be determined by the quality of his experience which falls in one or more of the categories set forth under "Qualifying Experience" described on page 4. This is shown by the scope and level of his responsibilities, and the importance and complexity of the cases which he has handled. Thus, to qualify at each grade level of Hearing Examiner position, at least 1 year of the applicant's qualifying experience must have been gained in the 7-year period preceding the date of his application and must have been of a level of difficulty,

complexity, responsibility, and importance characteristic of at least the next lower grade in the Federal service. However, an applicant *may be qualified* for eligibility at the GS-16 grade level on the basis of the successful completion of 2 years of qualifying experience at or comparable to the GS-14 grade level in the Federal service. Such experience must have been gained within the 2-year period preceding the date of his application.

The quality of experience gained in trial practice is determined by the importance and complexity of the cases prepared and tried by the applicant. Experience in routine misdemeanor cases, probate, domestic relations, minor tort matters and cases of a similar nature will not be accepted as meeting the quality of experience required for either grade level.

Special Qualifications for Filling Certain Hearing Examiner Positions

In filling Hearing Examiner positions in certain Federal regulatory bodies, prior consideration is given to eligible applicants whose administrative law experience includes participation in cases comparable to those coming before these bodies. See the section entitled "Special Qualifications for Positions in Certain Federal Regulatory Bodies," for the names of these Federal regulatory bodies, together with a statement of the special qualifications required for each agency's Hearing Examiner positions. (These special qualifications, however, will not be required in acting on *noncompetitive* actions involving individuals who have previously received appointments as Hearing Examiners in the Federal service from a competitive register.)

As indicated in these statements, an applicant is required to demonstrate that the 2 years of experience in each legal specialty has been obtained within the 7 years immediately preceding the date of his application. The cases in the legal specialty in which he has participated must be cited by him in the list described under "Submission of Examination Material" on page 10; and the number of work days spent by him in handling these cases must, in the aggregate, equal 2 years.

Creditability of Service with Armed Forces

Time spent by an applicant in the Armed Forces shall be considered in either of the two following ways, depending upon which will be of more benefit to the applicant:

- A. Such service may be considered as an extension of the employment in which the applicant was engaged immediately prior to his entrance into the military service, *or*
- B. Such experience may be considered on the basis of actual duties performed by the applicant in the military service.

As an example, an attorney who adjusts claims for an insurance company (an experience which is *not* qualifying) enters military

service; and, for the entire period of service, he represents the government as counsel in the preparation and presentation of cases before the Armed Services Board of Contract Appeals. His military service is accepted as qualifying experience, since this body's composition and practice are in substantial accord with the administrative procedure provisions in subchapter II of Chapter 5 of Title 5, United States Code.

In further exemplification, an attorney whose practice consists of the preparation and presentation of cases before the National Labor Relations Board (an experience which is qualifying) enters military service; and, for the entire period of service he acts as presiding officer at courts-martial. In view of the fact that participation in courts-martial as presiding officer or member of the court other than law officer in general courts-martial is *not* qualifying experience for the purpose of this examination, his military service is credited as an extension of his civilian practice.

Part-time or Unpaid Experience

Credit will be given for all valuable qualifying experience, regardless of whether compensation was received or whether the experience was gained in a part-time or full-time occupation. Part-time or unpaid experience will be credited on the basis of time actually spent in appropriate activities. Applicants wishing to receive credit for such experience must indicate clearly the nature of their duties and responsibilities in each position and the number of hours a week spent in such employment.

SUBMISSION OF EXAMINATION MATERIAL

The applicant is required to submit a complete Standard Form 171, Personal Qualifications Statement, in which *all* items of information requested therein are furnished. *He must also include the date and jurisdiction of his admission to the bar.*

Only brief descriptions of nonqualifying experience need be furnished. However, all periods of employment claimed by the applicant as having afforded him qualifying experience must be described specifically and in detail in order to convey a full and accurate understanding of the nature, variety, complexity, responsibility, and difficulty of such experience. Descriptions of experience such as "Private Practice of the Law," "House Counsel for the XYZ Corporation," "Assistant Attorney General for the State of Illinois," or "Attorney at Law, handling matters of extreme complexity involving difficult

problems in many legal fields" are uninformative; in reviewing an application, periods of service which are so described will be disregarded on the assumption that the applicant did not intend to claim such service as qualifying experience.

The applicant's statement of experience must clearly establish that he has obtained, in the aggregate, the *full 7 years of qualifying experience* required for eligibility. Therefore, in describing a period of employment consisting of a combination of qualifying and non-qualifying experience, it is essential that he indicate how his time was divided between the two types of experience. If this information is not furnished, no part of this period of employment will receive credit as qualifying.

The applicant must also clearly establish that he has obtained, in the aggregate, the *full 2 years of administrative law or actual trial or judicial experience* required for eligibility, and that the time of obtaining this experience *satisfies the requirements* set forth under "Recency of Experience" above. The Commission does *not* accept the unsubstantiated claim of *any* applicant that he has obtained this administrative law or trial experience. In proof of his claim, *every* applicant must include in his application a list, *in chronological order, of a sufficient number of administrative law cases* in which he has participated or *court cases which he has prepared and tried, or heard*, to demonstrate *2 full years (400 workdays)* within the 7-year period immediately preceding the date of his application. He must show for every case so listed:

1. Title and citation.
2. Dates between which participation took place.
3. Brief statement of issues involved.
4. Regulatory body or court hearing case. Note: For each court so cited, indicate whether Federal, State, or local; extent of jurisdiction (limited or unlimited, original or appellate).
5. Number of workdays spent in handling case, and in what capacity, i.e., judge, attorney, etc.
6. Names and current addresses of
 - (a) Hearing Officer of regulatory body or of judge who heard case
 - (b) Co-counsel, if any
 - (c) Opposing Counsel
 - (d) Names of Counsel appearing in case if applicant claims qualifying experience in a judicial type position.

The applicant is also required to submit the details listed below regarding 2 of the cases referred to above which, in his opinion, are the most important ones in which he has participated. (If the applicant satisfies the administrative law, actual trial, or judicial require-

ments of this announcement by listing only one case, he may submit details on only that case). If the applicant claims that his experience satisfies any of the special qualifications for filling specific Hearing Examiner positions which are described beginning on page 18, at least one of the cases must have been in the field of the legal specialty involved.

1. The precise nature and extent of participation.
2. Full statement of issues involved and a description of the problem.
3. Outline of arguments made.
4. Summary of technical, economic, or other data presented, including sources, manner of analysis, and uses, written decisions or opinions, or other papers prepared by applicant in one case.
5. Briefs, Memoranda of Law.

To assist the rating panels in determining the ability of the applicant to write clearly, concisely, and convincingly, the applicant shall submit with each such written decision or opinion a *verification* in the form of a signed statement of the extent of his *personal* involvement in and his responsibility for the preparation of the document; and the names and current addresses of those persons, if any, who worked with him in the preparation of the document.

Detailed descriptions of only 2 administrative law cases or 2 court cases which the applicant actually tried or heard should be submitted, one of which is to reflect the highest level of his qualifying experience.

It is incumbent on the applicant to make sure that his application and related papers contain the *names and current addresses of at least 20 individuals* who have personal knowledge of his experience and professional qualifications, so that inquiries may be made of a number of them. Ordinarily, the applicant will find that he has listed at least this number in connection with his employment record and the cases in which he has participated. However, if an examination of his papers indicates to him that this is not so, he is required to add a sufficient number of names to increase the total to 20.

The Civil Service Commission will communicate no more than *once* with an applicant regarding minor deficiencies or omissions (non-fatal) in the information submitted by him. If the applicant does not submit a *timely* reply which causes his application as so amended to *comply fully* with all of the filing requirements set forth above, an ineligible rating will be assigned to his application.

Finally, it is essential that information regarding the nature and quality of the applicant's service in his current employment be obtained from informed and reliable sources. This information is usually obtained from the applicant's employer or supervisor or, if he is a partner in a firm, from one or more of his associates. Therefore, if an applicant indicates that he does not want inquiries to be made of such persons, in connection with his current employment, his application will be canceled.

THE RATING PROCESS*Basic Rating*

A review will be made of the experience of each applicant as described by him in his application. After this review has been completed, applicants not meeting the requirements of this announcement will be assigned an ineligible rating and so notified.

In the case of each applicant who is found to have clearly met the requirements of this announcement, inquiries will be sent to a number of the individuals whose names were furnished by him; inquiries may also be sent to other individuals selected by the Commission.

The Civil Service Commission will conduct a full personal investigation of an applicant's qualifications when this becomes necessary in order to resolve questions raised regarding his eligibility, including those raised in responses received in reply to inquiries.

Based on an evaluation of the material submitted by the applicant and on the information obtained from inquiries, a basic rating is made to determine which applicants are eligible for appointment. This rating is based on a scale of 100. Because of the limited number of Hearing Examiner positions for which appointments are needed, the passing grade for this examination will be set at a figure that the Commission determines will produce an adequate register of eligibles. This means that the Commission will determine how many names are needed on the Hearing Examiner register and will establish as the passing grade for the examination such numerical rating as will result in that number being rated eligible for appointment. In addition, from among those applicants who are rated eligible for appointment, the Commission will make the determination regarding the special qualifications for appointment in certain agencies discussed on pages 9 and 18. Each applicant will be notified of his basic rating and of any special qualifications assigned to his application.

Demonstration of Ability to Write a Decision

Those applicants who attain a passing grade on the basic rating must demonstrate their ability to write a decision. This demonstration will require about 6 hours. For applicants residing in the Washington Metropolitan Area, the demonstration will be administered in the Commission's Central Office. For other applicants the demonstration will be administered at available points located near their places of residence. Applicants will be required to travel at their own expense.

The demonstrations will be held as frequently as necessary to meet the needs of the service. All applicants who (1) have filed *complete* appli-

cations on or before the date on which the Commission decides that the needs of the service require the scheduling of a demonstration and (2) who are assigned a passing grade at the basic rating will be given the demonstration at the same time. All applicants who file *complete* applications subsequent to the date on which the Commission decides that the needs of the service require the scheduling of a demonstration and who are assigned a passing grade at the basic rating, will be given the demonstration at a later date as determined by the Commission.

The demonstration, primarily, is to test an applicant's ability to express himself clearly, concisely, and convincingly in a written decision. For the purpose of the demonstration, it is considered that there is no "right" or "wrong" answer to the problem presented to the applicant.

The applicant will be given sufficient advance notice to insure that he will be able to arrange to take part in the demonstration on the appointed day. If it becomes impossible for the applicant to participate, his application will be suspended and he will be allowed to take part in the next scheduled demonstration.

Oral Interview

All applicants who attain a passing grade on the basic rating will also be required to appear for individual interviews with respect to the qualifications required for proper performance on the job. These interviews, which will last for about 1 hour, will be held by panels at the Commission's Regional Offices, its Central Office in Washington, D.C., and its Offices in Alaska, Hawaii, and Puerto Rico. The panels will consist of three persons specially designated by the Commission for such purpose and for evaluating each applicant's qualifications. The interviews will be held approximately 1 month after the date on which the applicant participated in the demonstration of his ability to write a decision. If it is impossible for him to appear as scheduled, his interview will be rescheduled if this can be done within the limits of the panel's calendar; otherwise, his application will be suspended and he will be allowed to take part in the next scheduled interviews. Applicants who are scheduled for oral interviews will be required to travel at their own expense.

Final Rating

Before an applicant is placed on the register, he will be required to undergo a National Agency and Local Law Enforcement Investigation, in connection with which he may be required to submit additional information.

A final rating will be made by the Commission, based on a careful evaluation of the information furnished by the applicant with his application, information obtained in response to inquiries, investigations, results of his demonstration of his ability to write a decision, and

results of the oral interview, and on the final report of the special panels. At this time, applicants will be assigned points for veteran preference, in the cases of those who are entitled thereto in accordance with the provisions of Title 5, United States Code 3309 and registers established.

Each competitor will be rated for the grades or salary levels which he will accept and for which he is qualified. In no case will an applicant be given a rating in any grade for which the compensation is less than the minimum acceptable salary as stated in his application.

Issuance of Certificates

Only those applicants to whose applications final eligible ratings have been assigned will be considered for certification to fill Hearing Examiner positions. The issuance of certificates will not be delayed pending completion of any phase of the rating of an applicant's application or pending decision on an appeal filed by an applicant from a rating.

MAINTAINING ELIGIBILITY

An applicant with a final eligible rating must bring his experience up to date by filing Standard Form 172, Supplemental Experience and Qualification Statement, no earlier than 12 months and no later than 18 months from the date on which he was notified of his eligibility in this examination. Thereafter, he is required to repeat this process no earlier than 12 months and no later than 18 months from the date on which he last brought his application up to date. In bringing his application up to date, an applicant must attach to his Standard Form 172 a list of all cases (whether in the field of administrative law or in other fields of law) in which he has participated since he filed his application in the examination. The list must be prepared in the manner prescribed in the second paragraph beginning on page 11 above. An applicant's failure to bring his experience up to date within the stated periods will result in the removal of his name from the register; in this event, he cannot re-file his application for the purpose of regaining eligibility during the 2-year period following the latest date on which he was required to update his application.

In bringing his application up to date, an applicant must continue to satisfy the provisions found under "Recency of Experience" set forth above. If he is unable to do so, his name will be removed from the register.

In addition, in order to retain credit for any special qualifications previously assigned to his application, he must show that his participation in cases falling within the legal specialty involved continues to satisfy

the "Recency of Experience" requirement set forth under "Special Qualifications for Filling Certain Hearing Examiner Positions" on page 9. No other re-rating, however, will be conducted on the basis of this additional information.

An applicant who receives a final eligible rating may file a new application (Standard Form 171) for a new rating at the same grade level no sooner than 2 years after the date on which he was notified of the previous eligible rating.

An applicant who files a new application (Standard Form 171) for a new rating at the same grade level is required to submit the new application in the manner described above under "Submission of Examination Material," describing his experience from the date on which he filed his old application or the date on which he last brought his experience up to date. With his application he must file a list of all cases (whether in the field of administrative law or in other fields of law) in which he has participated since he filed his application in the examination or since he last brought his application up to date. This listing must be prepared in the manner prescribed in the second paragraph beginning on page 11 above. The application and listing of cases must contain the names and current addresses of at least six individuals who have personal knowledge of his experience and professional qualifications, so that inquiries may be made of a number of them, as well as others. The new application, when combined with the old one, must satisfy all requirements set forth above, and it will be processed in the same manner as that set forth above under "The Rating Process."

Recompetition

Any applicant who filed a Hearing Examiner application previous to the issue date of this revised announcement and received a notice of cancellation or ineligibility may now re-file his application under this revised announcement. The new application must conform with all of the requirements of this announcement.

An applicant who files under the Revised announcement and who receives an ineligible rating may re-file no sooner than 1 year after the date on which he filed in this examination.

Note: In view of this restriction, an applicant *should not* limit his availability to a higher grade level if he has *any* doubts as to his ability to satisfy the qualification requirements for it. If he does so, and receives an ineligible rating, he will not be able to obtain consideration at a lower grade level until the conclusion of the previously stated 1-year period.

EQUAL EMPLOYMENT OPPORTUNITY

All applicants will be considered without regard to race, religion, color, national origin, sex, political affiliations, or any other nonmerit factor.

For information about citizenship, physical abilities required, veteran preference, and other general information, see Civil Service Commission Pamphlet No. 4, "Working for the U.S.A.," which may be obtained at most places where applications are available.

HOW TO APPLY*What to File*

To apply for this examination, submit the forms and material listed below.

1. Standard Form 171 and related papers (see explanation found under "Submission of Examination Material" on page 10).
2. Civil Service Commission Form 5001-ABC.
3. Standard Form 15, with documentary proof required therein, if claiming 5-point veteran preference based on other than wartime service, or 10-point veteran preference (disability, widow, wife, or mother preference). Documentary evidence will be returned to applicants.

Where to Get Forms

The forms mentioned above may be obtained from (1) Job Information Centers in many large cities throughout the country (their addresses are listed on pages 28 through 36 in Pamphlet 4), (2) many post offices except in cities where the Job Information Centers are located, or (3) the United States Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

When and Where to File

Applications may be filed in this examination at any time. Send applications to the United States Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Attention: Office of Administrative Law Judges.

**LIST OF AGENCIES
EMPLOYING HEARING EXAMINERS**

<i>Agency</i>	<i>Grade of Position</i>
Department of Agriculture.....	GS-16
Nuclear Regulatory Commission.....	GS-16
Civil Aeronautics Board.....	GS-16
Commodity Futures Trading Commission.....	GS-16
Consumer Products Safety Commission.....	GS-16
Drug Enforcement Administration, Department of Justice.....	GS-15
Federal Communications Commission.....	GS-16
Federal Maritime Commission.....	GS-16
Federal Power Commission.....	GS-16
Federal Trade Commission.....	GS-16
Food and Drug Administration, Department of Health, Education and Welfare.....	GS-16
Department of Housing and Urban Development.....	GS-15
International Trade Commission.....	GS-15
Interstate Commerce Commission.....	GS-16
Department of Labor.....	GS-16/15
Maritime Administration, Department of Commerce.....	GS-16
National Labor Relations Board.....	GS-16
National Transportation Safety Board, Department of Transportation....	GS-16
U.S. Postal Service.....	GS-16
Securities and Exchange Commission.....	GS-16
U.S. Civil Service Commission.....	GS-16
U.S. Coast Guard, Department of Transportation.....	GS-15
Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.....	GS-15
Office of the Secretary, Department of the Interior.....	GS-16
Social Security Administration, Department of Health, Education, and Welfare.....	GS-15
Occupational Safety and Health Review Commission.....	GS-16
Postal Rate Commission.....	GS-17
Environmental Protection Agency.....	GS-16/15

**SPECIAL QUALIFICATIONS FOR POSITIONS IN
CERTAIN FEDERAL REGULATORY BODIES**

As set forth under "Special Qualifications for Filling Certain Hearing Examiner Positions," on page 9 of the examination announcement, prior consideration in filling Hearing Examiner positions in certain Federal regulatory bodies is given to eligible applicants whose administrative law

experience includes participation in cases comparable to those coming before these bodies. Listed below are the special qualifications for the positions in these bodies.

In order to obtain prior consideration in filling a position in one of these bodies, an eligible applicant must have clearly established in his application and related papers, in the manner prescribed in the examination announcement, that he has acquired the special qualifications for that position within the 7 years immediately preceding the date of his application.

When it is found that the register does not contain the names of a sufficient number of eligibles possessing the special qualifications for consideration by an agency, certification will then be made in regular order from the register.

DEPARTMENT OF AGRICULTURE

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory bodies at the Federal, State, or local level, involving issues arising in the enforcement, application, or administration of marketing orders pertaining to agricultural commodities or food distribution regulations such as those pertaining to the control of commodity exchanges and stockyards.

CIVIL AERONAUTICS BOARD

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory agencies at the Federal, State, or local level, in the field of air transportation, involving matters relating to rates, finance, or operating authorities. In the absence of a sufficient number of eligible applicants with the foregoing experience, priority in certification will next be given to those with similar experience in the field of surface transportation.

FEDERAL COMMUNICATIONS COMMISSION

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory bodies at the Federal, State, or local level, in the field of communications law.

FEDERAL MARITIME COMMISSION

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, involving causes arising in the field of public utilities law. These cases must have originated before governmental regulatory bodies at the Federal, State, or local level.

FEDERAL POWER COMMISSION

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, involving causes arising in the field of public utilities law. These cases must have originated before governmental regulatory bodies at the Federal, State, or local level.

INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory agencies, involving questions arising under the Federal alcohol and tobacco tax laws or under substantially similar laws at the State or local level; more specifically, the questions must have involved the levy and collection of taxes on these commodities; control of their production, distribution, and sale; or practices followed in their labeling and advertising.

INTERSTATE COMMERCE COMMISSION

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory agencies at the Federal, State, or local level, in the field of surface transportation (including transportation by rail, motor carrier, or water), involving matters relating to rates, finance, operating authorities, and safety. In the absence of a sufficient number of eligible applicants with the foregoing experience, priority in certification will next be given to those with similar experience in the field of air transportation.

NATIONAL LABOR RELATIONS BOARD

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory bodies at the Federal or State level, arising in the field of labor law and involving the enforcement of governmental policy encouraging collective bargaining and the right of free association in connection with employer-employee relations.

An applicant who has fully established his general eligibility under the terms of the examination announcement is permitted to submit evidence of his participation, within the 7 years immediately preceding the date of his application, in the arbitration of labor disputes in connection with the provisions of a collective bargaining contract or statutory machinery, as partial or complete satisfaction of the special qualifications requirement set forth above.

SECURITIES AND EXCHANGE COMMISSION

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory bodies at the Federal, State, or local level, in the field of securities financing and involving the public issuance of securities or the trading of securities. In connection with this practice, the applicant must have acquired and applied:

1. An understanding of the corporate financing process as related to the public issuance of securities; and
2. An understanding of the appraisal or evaluation of annual reports of corporations, including financial statements; and
3. An understanding of basic accounting theories and principles and of their application; and
4. An understanding of current trading techniques in the securities markets.

SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, for positions located in Puerto Rico

A current working knowledge of both the English and Spanish languages (knowledge need not have been acquired within the 7 years immediately preceding date of application).

U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION

Two years of experience in the preparation, presentation, or hearing of formal cases, or in making decisions on the basis of the record of such hearings, originating before governmental regulatory bodies, in the field of admiralty and maritime law and involving the interests of seamen or the shipping industry. In the absence of a sufficient number of eligible applicants with the foregoing experience, priority in certification will next be given to eligible applicants with 2 years of experience in hearing formal cases coming before governmental regulatory bodies, or as a judge or justice of a court of record.

Appendix C. Qualifications Inquiry Form 192—Civil Service Commission "Voucher"

UNITED STATES CIVIL SERVICE COMMISSION

Washington, D.C.

QUALIFICATIONS INQUIRY—ADMINISTRATIVE LAW JUDGE

Form Approved
OMB No. 50-R0088

I write to ask your help in evaluating the qualifications of who is being considered in an examination for the position of Administrative Law Judge.

An Administrative Law Judge presides at formal agency hearings required by statute. He issues subpoenas, questions witnesses, considers the facts in the record and arguments and contentions made, defines the issues involved, and recommends decisions or makes initial decisions on the basis of reliable, probative, and substantial evidence on the record.

Decisions of Administrative Law Judges are important to all of us, relating as they do to such areas as communications, power, transportation, labor, and the like. We make every effort to ensure that only the very best qualified applicants are considered for appointment to such positions. To do this, we need the advice and assistance of responsible citizens like yourself who know this person well enough to be able to evaluate his qualifications and capabilities.

We have tried to simplify your task by including in this letter questions which can be answered by check marks. Space is also provided on the last page for additional information in any case where you feel that your checked response does not adequately reflect your estimate of this person's ability. Your evaluation is important to us and I hope you will be frank. The information you furnish will be ~~held in confidence and made~~ available only to those officials of the Civil Service Commission who are responsible for administering the Administrative Law Judge examination.

If you feel that you do not have sufficient personal knowledge of this individual's background to answer any or all of the questions, please so indicate on the questionnaire and return it. It would be most helpful if we could have your response within days.

If you could suggest names and addresses of other persons who might be able to give information about this applicant's qualifications and capabilities, that too would be helpful. Thank you for your cooperation. A return addressed envelope is enclosed for your convenience.

Sincerely yours,



Charles J. Dulles
Director
Office of Administrative Law Judges

Enclosure

CSC FORM 192
MARCH 1973

1. IN WHAT CAPACITY, HOW LONG, AND HOW WELL HAVE YOU KNOWN THE APPLICANT? (Check appropriate box)

His employer or supervisor
 Co-worker or associate counsel on a special project
 Judge, master, or referee of a court of record before whom applicant has appeared. (Specify position and tribunal)

Hearing Officer of an administrative tribunal or regulatory body before whom applicant has appeared. (Specify position and tribunal)
 His client
 Other (Specify) _____

Opposing Counsel

My contacts with applicant lasted from _____ to _____ with observation of his work on the following basis:

Daily
 Frequent
 Infrequent
 None

*** NOTE:** In evaluating the applicant's qualities and abilities with respect to items 2 through 11 below, please compare him with other people you have known who have relatively the same amount and type of training and experience that the applicant has had. Place a check mark in the appropriate column to indicate your evaluation in relation to each statement; then, if you wish to qualify your answer or give additional information, use the space labeled "Comments." Comments on any additional qualities or abilities to which you would like to call attention may be entered in item 18 on the last page of this inquiry form.

	NO COMPETENCY TO OBSERVE	LESS THAN ADEQUATE	ADEQUATE	BETTER THAN ADEQUATE	OUTSTANDING
2. ANALYZING AND EVALUATING EVIDENCE a. Thoroughness in analyzing all items of evidence presented in a case, rather than tending to accept some of the items at face value..... b. Ability to distinguish relative value of items of evidence in the record..... COMMENTS:					
3. INTERPRETING AND APPLYING LAWS, RULES, REGULATIONS, AND LEGAL PRECEDENT a. Soundness of his interpretations of legal provisions and precedents..... b. Effectiveness in making on-the-spot applications of legal provisions and precedents in proceedings before courts or regulatory bodies..... COMMENTS:					
4. WRITING STATEMENTS OF FACT AND LAW, RECOMMENDATIONS, AND ORDERS a. Skill in organizing and preparing written material clearly and concisely..... b. Ability to write convincingly and objectively..... c. Promptness in preparing decisions..... COMMENTS:					

5. SECURING FACTS FROM INDIVIDUALS THROUGH OBSERVATION AND INTERVIEWS UNDER DIFFICULT CONDITIONS	NO OPPORTUNITY TO OBSERVE	LESS THAN ADEQUATE	ADEQUATE	BETTER THAN ADEQUATE	OUTSTANDING
<p>a. Skill in planning questions to obtain a desired end or provide lines for further questioning.....</p> <p>b. Use of diplomacy, discretion, and persuasiveness without rudeness, and firmness without stubbornness, to accomplish results in difficult circumstances.....</p> <p>c. Effectiveness in obtaining testimony and drawing out pertinent facts.....</p> <p>d. Skill in reflecting credit upon himself and his organization during the process of securing necessary facts.....</p> <p>e. Tactfulness and willingness to concede when in error.....</p> <p>COMMENTS:</p>					
<p>6. HANDLING DIFFICULT SITUATIONS WHEN PRESENTING OR PREPARING CASES</p> <p>a. Ability to detect flaws in opponents' statements of law, logic, reasoning, or lines of questioning, and to make prompt and valid objections.....</p> <p>b. Resourcefulness in resolving complex problems which arise.....</p> <p>c. Practicality of his proposals or solutions.....</p> <p>d. Skill in creating favorable impression and inspiring confidence.....</p> <p>e. Reputation for fairness and trustworthiness.....</p> <p>COMMENTS:</p>					
<p>7. PRESIDING AT MEETINGS, CONFERENCES, OR HEARINGS</p> <p>a. Poise and stability in trying circumstances.....</p> <p>b. Directness and forcefulness.....</p> <p>c. Effectiveness in maintaining firm control of the proceedings.....</p> <p>d. Ability to apply rules of evidence.....</p> <p>COMMENTS:</p>					
<p>8. MAKING INDEPENDENT DECISIONS IN IMPORTANT MATTERS</p> <p>a. Ability to withstand pressure or influence of others and to render the decision he believes right.....</p> <p>b. Soundness and logic of his decisions.....</p> <p>c. Willingness to establish new precedents or procedures when the facts merit such action.....</p> <p>d. Ability to arrive at decisions promptly.....</p> <p>COMMENTS:</p>					

<p>9. OBJECTIVITY</p> <p>Demonstrated capacity to make impartial judgments free from biases and prejudices.....</p> <p>COMMENTS:</p>	<p>NO OPPORTUNITY TO OBSERVE</p>	<p>LESS THAN ADEQUATE</p>	<p>ADEQUATE</p>	<p>BETTER THAN ADEQUATE</p>	<p>OUTSTANDING</p>
<p>10. PROFESSIONAL STANDING</p> <p>In your opinion, what is the overall relative standing of the applicant among the members of the legal profession or members of his professional specialization?.....</p> <p>COMMENTS:</p>					
<p>11. KNOWLEDGE AND EXPERIENCE IN TECHNICAL SUBJECT-MATTER FIELDS <i>(Please place a check in the appropriate column as the right opposite each subject-matter field listed in items "a" through "g" below in order to indicate THE SCOPE OF THE APPLICANT'S EXPERIENCE IN EACH OF THESE TECHNICAL FIELDS.)</i></p> <p>a. Transportation.....</p> <p>b. Communication.....</p> <p>c. Power.....</p> <p>d. Labor Management Relations.....</p> <p>e. Benefits.....</p> <p>f. Finance.....</p> <p>g. Utilities.....</p> <p>h. Other (Specify).....</p> <p>COMMENTS:</p>	<p>NO OPPORTUNITY TO OBSERVE</p>	<p>LIMITED VARIETY OF EXPERIENCE WITH LOCALIZED PROBLEMS</p>	<p>WIDE VARIETY OF EXPERIENCE WITH LOCALIZED PROBLEMS</p>	<p>LIMITED VARIETY OF EXPERIENCE WITH NATIONAL OR INTERNATIONAL IN SCOPE</p>	<p>WIDE VARIETY OF EXPERIENCE WITH NATIONAL OR INTERNATIONAL IN SCOPE</p>

<p>12. a. What period(s) of time is (are) covered in your evaluation of the applicant's experience in the field of administrative law or in actual trial practice in courts of record? From _____ to _____</p> <p>b. What percent of applicant's entire experience has been in administrative law? _____ I don't know _____ What percent of applicant's entire experience has been in actual trial practice? _____ I don't know _____</p>
<p>13. a. Do you have any reason to question this person's loyalty to the U.S.? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b. Do you have any reason to believe this person belongs, or has belonged, to any communist or fascist organization, or to any organization which advocates overthrowing or altering our constitutional form of Government by force or other illegal means? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>c. To your knowledge does this person associate, or has he associated, with any person whose loyalty to the United States is questionable or who belongs to any of the types of organization described in the above? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>d. If your answer to any of these questions is "Yes", please give full details under Item "18" on last page.</p>
<p>14. TO YOUR KNOWLEDGE HAS HE EVER BEEN DISCHARGED OR HAS HE RESIGNED FROM ANY EMPLOYMENT AFTER BEING TOLD HIS CONDUCT OR WORK WAS UNSATISFACTORY? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If your answer is "Yes", please give:</p> <p>a. Name and address of employer</p> <p>b. Reason for discharge or resignation</p>
<p>15. DO YOU HAVE KNOWLEDGE OF ANY BEHAVIOR, ACTIVITIES, OR ASSOCIATIONS WHICH TEND TO SHOW THAT THIS PERSON IS NOT RELIABLE, HONEST, TRUSTWORTHY, AND OF GOOD CONDUCT AND CHARACTER? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If your answer is "Yes", please explain fully:</p>
<p>16. IT WOULD BE APPRECIATED IF YOU WOULD BRIEFLY DESCRIBE THE MOST IMPORTANT LEGAL PROCEEDING OR NAME THE LEADING CASES IN WHICH BOTH YOU AND THE CANDIDATE HAVE PARTICIPATED, OR IN WHICH YOU HAVE HAD AN OPPORTUNITY TO OBSERVE THE CANDIDATE'S WORK IN DETAIL.</p>

17. JUDICIAL TEMPERAMENT.

Based upon your knowledge of the applicant's experience and demonstrated abilities, do you recommend him, without reservation, as having the judicial temperament and poise required for successful performance in a judicial or quasi-judicial position?

Yes No

If your answer is "No", please set forth your reservations in the space below.

18. a. PLEASE USE THIS SPACE TO SUPPLY ANY ADDITIONAL PERTINENT INFORMATION AND/OR EVALUATION OF THE APPLICANT'S QUALIFICATIONS WHICH YOU DO NOT BELIEVE ARE FULLY REFLECTED BY YOUR REPLIES TO ITEMS 2 THROUGH 11 ABOVE.

b. ARE THERE ANY AREAS OF UNCERTAINTY IN YOUR MIND WITH RESPECT TO ANY OF THE QUESTIONS YOU ANSWERED ABOVE WHICH YOU THINK THE CIVIL SERVICE COMMISSION SHOULD LOOK INTO?

Yes No

If your answer is "Yes":

WOULD YOU LIKE TO DISCUSS THEM WITH AN OFFICIAL OF THE CIVIL SERVICE COMMISSION WHO WILL INTERVIEW YOU IN PERSON AT YOUR CONVENIENCE?

Yes No

PLEASE SIGN YOUR NAME BELOW

DATE

YOUR SIGNATURE

YOUR POSITION OR TITLE

Under the Privacy Act of 1974 the applicant may request and be furnished the information you provide, including your identity. However, if you wish your name and any information which would identify you to be kept in confidence, check box below and your request will be honored by the Commission. Request confidence

Appendix D

ADMINISTRATIVE LAW JUDGE—GS-15 REGISTER, JAN. 1, 1976

Standing	Eligible	Rating
1	Appellate Judge, Army (cp).....	108
2	Military Judge, Army (tp).....	100
3	Member, Board of Contract Appeals (tp).....	98
4	Trial Attorney, Army (tp).....	95
5	Member, Appeals Council, SSA (tp).....	95
¹ 6	SSI Hearing Examiner, SSA (tp).....	93
7	Assistant Corporation Counsel, New York City (tp).....	93
8	Private Practitioner, Wisconsin (tp).....	93
9	Trial Attorney, HEW (cp).....	92
10	Private Practitioner, Florida (tp).....	92
11	Private Practitioner, Pennsylvania (tp).....	92
12	State Judge, Oklahoma (tp).....	91
13	State Judge, Illinois (tp).....	91
14	Administrative Law Judge, SSA (cp).....	90
15	Hearing Examiner, Wisconsin (xp).....	90
16	Administrative Law Judge, SSA (tp).....	90
17	Special Inquiry Officer, Department of Justice (tp).....	90
18	Vice President, General Attorney, Private Industry (tp).....	90
19	Assistant Corporation Counsel, New York City (tp).....	90
20	Staff Attorney, Legal Aid, California (tp).....	90
21	Private Practitioner, Missouri (tp).....	89
22	State Judge, Oklahoma (tp).....	89
23	Trial Attorney, Legal Aid, New York (tp).....	89
24	Deputy Attorney General, Hawaii (tp).....	89
25	Attorney, Department of the Army (tp).....	88
26	Assistant U.S. Attorney, Department of Justice (tp).....	88
27	Private Practitioner, South Carolina (tp).....	87
28	Private Practitioner, Missouri (tp).....	87
29	Private Practitioner, Tennessee (tp).....	87
30	Private Practitioner, Missouri (tp).....	87
31	Private Practitioner, District of Columbia (tp).....	87
32	Member, Appeals Council, SSA.....	87
33	Private Practitioner, Washington State.....	87
34	Attorney-Advisor, CAB (tp).....	86
35	Supervisory Attorney, FTC (tp).....	86
36	Chief, Legal Branch, EPA (tp).....	86
37	Assistant Regional Attorney, Department of Agriculture (tp).....	86
¹ 38	SSI Hearing Examiner, SSA (tp).....	86
² 39	Administrative Law Judge (Temp) Black Lung, SSA (tp).....	86
40	Referee, Workmen's Compensation, Pennsylvania (tp).....	86
41	Private Practitioner, Maryland (tp).....	86
42	Prosecuting Attorney, Arkansas (tp).....	86
43	Attorney, New York State Division, Alcoholic Beverage Control (tp).....	86
44	Assistant Attorney General, New York State.....	86
45	Special Counsel, NLRB (tp).....	85
46	Trial Attorney, Federal Railway Administration (tp).....	85
47	Member, Board of Land Appeals (tp).....	85
48	Professional Assistant, SSA (tp).....	85
49	Trial Attorney, Department of the Navy (tp).....	85
² 50	Administrative Law Judge (Temp) Black Lung, SSA (tp).....	85
51	Legal Advisor, Department of the Interior (tp).....	85
52	Trial Attorney, Department of Justice (tp).....	85

See footnotes at end of table.

ADMINISTRATIVE LAW JUDGE—GS-15 REGISTER, JAN. 1, 1976—Continued

Standing	Eligible	Rating
53	Assistant U.S. Attorney, Department of Justice (tp)-----	85
54	Assistant Attorney General, Trust Territories (tp)-----	85
55	Private Practitioner, Georgia (tp)-----	85
56	Referee, Workmen's Compensation, California (tp)-----	85
57	Chief Counsel, Public Service Commission, Wyoming (tp)---	85
58	Private Practitioner, California (tp)-----	85
59	Private Practitioner, Oklahoma (tp)-----	85
60	Referee, Workmen's Compensation, California (tp)-----	85
61	Member, Workmen's Compensation Appeals Board, California (tp)-----	85
62	Private Practitioner, California (tp)-----	85
63	Chief Trial Attorney, Navy Contract Appeals-----	85
64	Referee, Workmen's Compensation, Pennsylvania-----	85
65	State Judge, New York-----	85
66	Private Practitioner, Virginia-----	85
67	State Judge, Kentucky-----	85
68	Attorney, IRS-----	84
69	Attorney-Advisor, FPC-----	83
70	Trial Attorney, Department of Justice-----	83
71	Attorney, NLRB-----	83
72	District Attorney, Oregon-----	83
73	Attorney, ICC-----	82
74	Regional, Attorney, HEW-----	82
75	Attorney, NLRB-----	82
² 76	Administrative Law Judge (Temp) Black Lung, SSA-----	82
77	Member, Appeals Council, SSA-----	82
78	Private Practitioner, Arkansas-----	82
79	Assistant Attorney General, Louisiana-----	82
80	Trial Attorney, NLRB-----	81
81	Attorney-Advisor, ICC-----	81
² 82	Administrative Law Judge (Temp) Black Lung, SSA-----	81
83	Private Practitioner, Ohio-----	81
84	Special Assistant, U.S. Senator-----	81
85	Private Practitioner, New Jersey-----	81
86	Attorney, Postal Service-----	80
87	Trial Attorney, Nuclear Regulatory Commission-----	80
88	Attorney, ICC-----	80
89	Private Practitioner, Missouri-----	80
90	Private Practitioner, Illinois-----	80
91	Private Practitioner, Massachusetts-----	80
92	Private Practitioner, California-----	80
93	Assistant City Attorney, Omaha, Nebraska-----	80
94	Private Practitioner, New York-----	80
95	Private Practitioner, Arkansas-----	80
96	Referee, Workmen's Compensation, Mississippi-----	80
97	Commissioner, Industrial Board, Massachusetts-----	80
98	Private Practitioner, Oregon-----	80
99	Private Practitioner, Maryland-----	80
100	Assistant Solicitor General, Department of Justice, Puerto Rico-----	80
101	Private Practitioner, Ohio-----	80

¹ SSI Hearing Examiner.² Administrative Law Judge (Temp) Black Lung.

NOTE.—cp and xp=10 points veterans preference; tp=5 points veterans preferences.

ADMINISTRATIVE LAW JUDGE—GS-15 REGISTER, FEB. 23, 1977

Standing	Eligible	Rating
1	Appellate Judge, Army (cp)-----	108
2	Appellate Judge, Air Force (tp)-----	101
3	Deputy Regional Solicitor, Department of Labor (tp)-----	96
4	Supervisory Attorney-Advisory, NASA (tp)-----	96
5	Assistant Regional Director, FTC (tp)-----	95
6	Assistant U.S. Attorney, Department of Justice (tp)-----	93
7	Assistant Attorney General, Rhode Island (tp)-----	93
8	Assistant U.S. Attorney, Department of Justice (tp)-----	92
9	Supervisory Attorney-Advisor, ICC (tp)-----	92
10	Private Practitioner, Florida (tp)-----	92
11	Private Practitioner, Virginia (tp)-----	92
12	General Attorney, NLRB (tp)-----	91
13	State Judge, Oklahoma (tp)-----	91
14	Private Practitioner, West Virginia (tp)-----	91
15	Administrative Law Judge, SSA (cp)-----	90
16	Hearing Examiner, Wisconsin (xp)-----	90
17	Administrative Law Judge, SSA (tp)-----	90
18	Assistant Regional Attorney, NLRB (tp)-----	90
19	Hearing Officer, Department of Labor (tp)-----	90
20	Assistant Corporation Counsel, New York (tp)-----	90
21	Attorney-Advisor, Occupational Review Commission-----	90
22	Attorney-Advisor, ICC-----	90
¹ 23	Administrative Law Judge (Temp), SSA (tp)-----	89
¹ 24	Administrative Law Judge (Temp), SSA (tp)-----	89
25	Private Practitioner, Missouri (tp)-----	89
¹ 26	Administrative Law Judge (Temp), SSA (tp)-----	88
¹ 27	Administrative Law Judge (Temp), SSA (tp)-----	88
28	Member, Board of Contract Appeals (tp)-----	88
¹ 29	Administrative Law Judge (Temp), SSA (tp)-----	88
30	Private Practitioner, Georgia (tp)-----	88
31	Private Practitioner, Maryland (tp)-----	88
32	Assistant Attorney General, New York (tp)-----	88
33	Private Practitioner, Missouri (tp)-----	88
34	Senior Trial Attorney, IRS-----	88
¹ 35	Administrative Law Judge (Temp), SSA (tp)-----	87
36	Supervisory Attorney, NLRB (tp)-----	87
37	Private Practitioner, South Carolina (tp)-----	87
38	Private Practitioner, Missouri (tp)-----	87
39	State Judge, Alaska (tp)-----	87
40	Private Practitioner, District of Columbia (tp)-----	87
41	Hearing Officer, Georgia (tp)-----	87
42	Private Practitioner, District of Columbia-----	87
43	Assistant Attorney General, Maryland-----	87
44	Private Practitioner, Washington-----	87
¹ 45	Administrative Law Judge (Temp), SSA (tp)-----	86
46	Attorney-Advisor, CAB (tp)-----	86
47	Supervisory Attorney, FTC (tp)-----	86
48	Attorney, Indian Claims Commission (tp)-----	86
49	Chief, Legal Branch, EPA (tp)-----	86
¹ 50	Administrative Law Judge (Temp), SSA (tp)-----	86
51	Assistant Regional Attorney, Department of Agriculture (tp)-----	86
52	Private Practitioner, Maryland (tp)-----	86
53	Hearing Officer, New York (tp)-----	86
54	Private Practitioner, Puerto Rico-----	86
55	Attorney, Board of Veterans Appeals, (tp)-----	85
56	Trial Attorney, Federal Railroad Administration (tp)-----	85
¹ 57	Administrative Law Judge (Temp), SSA (tp)-----	85
58	Member, Board of Land Appeals (tp)-----	85
¹ 59	Administrative Law Judge (Temp), SSA (tp)-----	85
60	Trial Attorney, Department of the Navy (tp)-----	85
¹ 61	Administrative Law Judge (Temp), SSA (tp)-----	85

See footnotes at end of table.

ADMINISTRATIVE LAW JUDGE—GS-15 REGISTER, FEB. 23, 1977—Continued

Standing	Eligible	Rating
62	Assistant Attorney General, U.S. Trust Territories (tp)-----	85
¹ 63	Administrative Law Judge (Temp), SSA (tp)-----	85
64	Chief Counsel, Public Service Commission, Wyoming (tp)---	85
65	Assistant Attorney General, Connecticut (tp)-----	85
¹ 66	Administrative Law Judge (Temp), SSA (tp)-----	85
67	Chief Trial Attorney, Department of the Navy-----	85
68	Chairman, Public Utility Commission, Massachusetts-----	85
69	Private Practitioner, New Jersey-----	85
70	Private Practitioner, Virginia-----	85
71	Public Defender, Arkansas-----	84
72	Trial Attorney, Department of Justice-----	83
73	Attorney, NLRB-----	83
74	Regional Attorney, HEW-----	82
75	General Attorney, NLRB-----	82
76	Attorney (Litigation), SSA-----	82
77	State's Attorney, Missouri-----	82
78	Assistant Attorney General, Louisiana-----	82
79	Trial Attorney, NLRB-----	81
¹ 80	Administrative Law Judge (Temp), SSA-----	81
81	Private Practitioner, District of Columbia-----	81
82	Special Assistant, U.S. Senator-----	81
83	Attorney-Advisor, ICC-----	80
84	Attorney, U.S. Postal Service-----	80
85	Trial Attorney, Nuclear Regulatory Commission-----	80
¹ 86	Administrative Law Judge (Temp), SSA-----	80
87	Private Practitioner, Missouri-----	80
88	Private Practitioner, Massachusetts-----	80
89	City Attorney, Nebraska-----	80
90	Public Defender, Arkansas-----	80
91	Commissioner, Industrial Board, Massachusetts-----	80
92	Supervising Attorney, New York-----	80

¹ SSI hearing examiner.

ADMINISTRATIVE LAW JUDGE—GS-15 REGISTER, FEB. 23, 1977 (WITHOUT VETERANS PREFERENCE POINTS)

Standing	Eligible	Rating
1	Appellate Judge, Army-----	98
2	Appellate Judge, Air Force-----	96
3	Deputy Regional Solicitor, Department of Labor-----	91
4	Supervisory Attorney-Advisory, NASA-----	91
5	Assistant Regional Director, FTC-----	90
6	Attorney-Advisor, Occupation Review Commission-----	90
7	Attorney-Advisor, ICC-----	90
8	Assistant U.S. Attorney, Department of Justice-----	88
9	Senior Trial Attorney, IRS-----	88
10	Assistant Attorney General, Rhode Island-----	88
11	Assistant U.S. Attorney, Department of Justice-----	87
12	Supervisory Attorney-Advisor, ICC-----	87
13	Private Practitioner, District of Columbia-----	87
14	Private Practitioner, Florida-----	87
15	Assistant Attorney General, Maryland-----	87
16	Private Practitioner, Washington-----	87
17	Private Practitioner, Virginia-----	87
18	General Attorney, NLRB-----	86
19	State Judge, Oklahoma-----	86
20	Private Practitioner, Puerto Rico-----	86
21	Private Practitioner, West Virginia-----	86

ADMINISTRATIVE LAW JUDGE—GS-15 REGISTER, FEB. 23, 1977 (WITHOUT VETERANS
PREFERENCE POINTS)—Continued

Standing	Eligible	Rating
22	Administrative Law Judge, SSA	85
23	Assistant Regional Attorney, NLRB	85
24	Chief Trial Attorney, Department of the Navy	85
25	Hearing Officer, Department of Labor	85
26	Assistant Corporation Counsel, New York	85
27	Chairman, Public Utility Commission, Massachusetts	85
28	Private Practitioner, New Jersey	85
29	Private Practitioner, Virginia	85
30	Administrative Law Judge (Temp), SSA	84
31	Administrative Law Judge (Temp), SSA	84
32	Private Practitioner, Missouri	84
33	Public Defender, Arkansas	84
34	Trial Attorney, Department of Justice	83
35	Attorney, NLRB	83
36	Administrative Law Judge (Temp), SSA	83
37	Administrative Law Judge (Temp), SSA	83
38	Member, Board of Contract Appeals	83
39	Administrative Law Judge (Temp), SSA	83
40	Private Practitioner, Georgia	83
41	Private Practitioner, Maryland	83
42	Assistant Attorney General, New York	83
43	Private Practitioner, Missouri	83
44	Regional Attorney, HEW	82
45	General Attorney, NLRB	82
46	Administrative Law Judge (Temp), SSA	82
47	Supervisory Attorney, NLRB	82
48	Attorney (Litigation), SSA	82
49	Private Practitioner, South Carolina	82
50	Private Practitioner, Missouri	82
51	State Judge, Alaska	82
52	Private Practitioner, District of Columbia	82
53	State's Attorney, Missouri	82
54	Hearing Officer, Georgia	82
55	Assistant Attorney General, Louisiana	82
56	Administrative Law Judge (Temp), SSA	81
57	Trial Attorney, NLRB	81
58	Attorney-Advisor, CAB	81
59	Administrative Law Judge (Temp), SSA	81
60	Supervisory Attorney, FTC	81
61	Attorney, Indian Claims Commission	81
62	Chief, Legal Branch, EPA	81
63	Administrative Law Judge (Temp), SSA	81
64	Assistant Regional Attorney, Department of Agriculture	81
65	Private Practitioner, District of Columbia	81
66	Private Practitioner, Maryland	81
67	Hearing Officer, New York	81
68	Special Assistant, U.S. Senator	81
69	Administrative Law Judge, SS A	80
70	Attorney-Advisor, ICC	80
71	Attorney, Board of Veterans Appeals	80
72	Attorney, U.S. Postal Service	80
73	Trial Attorney, Federal Railroad Administration	80
74	Administrative Law Judge (Temp), SSA	80
75	Member, Board of Land Appeals	80
76	Administrative Law Judge (Temp), SSA	80
77	Trial Attorney, Department of the Navy	80
78	Trial Attorney, Nuclear Regulatory Commission	80
79	Administrative Law Judge (Temp), SSA	80
80	Administrative Law Judge (Temp), SSA	80
81	Assistant Attorney General, U.S. Trust Territories	80
82	Administrative Law Judge (Temp), SSA	80
83	Private Practitioner, Missouri	80

ADMINISTRATIVE LAW JUDGE—GS-15 REGISTER, FEB. 23, 1977 (WITHOUT VETERANS
PREFERENCE POINTS)—Continued

Standing	Eligible	Rating
84	Private Practitioner, Massachusetts.....	80
85	City Attorney, Nebraska.....	80
86	Chief Counsel, Public Service Commission, Wyoming.....	80
87	Public Defender, Arkansas.....	80
88	Assistant Attorney General, Connecticut.....	80
89	Commissioner, Industrial Board, Massachusetts.....	80
90	Administrative Law Judge (Temp), SSA.....	80
91	Supervising Attorney, New York.....	80
92	Hearing Examiner, Wisconsin.....	80

ADMINISTRATIVE LAW JUDGE—GS-16 REGISTER

Standing	Eligible	Rating
1	Appellate Judge, Army (cp).....	103
2	Administrative Law Judge, SSA (cp).....	100
3	Member, Armed Services Board of Contract Appeals (tp)....	96
4	Appellate Judge, Air Force (tp).....	96
5	Chief Military Judge, Air Force (tp).....	95
6	Assistant Section Chief, Department of Justice (tp).....	94
7	Member, Interior Board of Contract Appeals (tp).....	93
8	Chief Counsel, Occupational Review Commission (tp).....	93
9	Administrative Law Judge, SSA (cp).....	92
10	Chairman, Labor and Industrial Relations Commission, Mis- souri (cp).....	92
11	Administrative Law Judge, SSA (xp).....	92
12	Trial Attorney, Department of Justice (tp).....	92
13	Administrative Law Judge, Department of Labor (cp).....	91
14	Assistant Bureau Director, SSA (xp).....	91
15	Administrative Law Judge, SSA (tp).....	91
16	Deputy Regional Solicitor, Department of Labor (tp).....	91
17	Member, Armed Services Board of Contract Appeals (tp)....	91
18	Administrative Law Judge, SSA (tp).....	91
19	Administrative Law Judge, SSA (tp).....	91
20	Assistant General Counsel, FPC.....	91
21	Administrative Law Judge, SSA (cp).....	90
22	Assistant Regional Director, FTC (cp).....	90
23	Administrative Law Judge, SSA (cp).....	90
24	Trial Attorney, FTC (cp).....	90
25	Supervisory Attorney-Advisory, NASA (xp).....	90
26	Private Practice, California (xp).....	90
27	Administrative Law Judge, SSA (tp).....	90
28	Administrative Law Judge, SSA (tp).....	90
29	Administrative Law Judge, SSA (tp).....	90
30	Trial Attorney, FTC (tp).....	90
31	Assistant Director, FTC (tp).....	90
32	Administrative Law Judge, SSA (tp).....	90
33	Private Practice, Wisconsin (tp).....	90
34	Administrative Law Judge, SSA (tp).....	89
35	Administrative Law Judge, SSA (tp).....	89
36	Trial Attorney, Consumer Product Safety Commission (tp)...	89
37	Private Practice, Missouri (tp).....	89
38	Private Practice, Illinois (tp).....	89
39	Associate Counsel, Navy Contract Appeals (tp).....	88
40	Administrative Law Judge, SSA (tp).....	88
41	Attorney-Advisor, FPC (tp).....	88
42	Assistant U.S. Attorney, Department of Justice (tp).....	88
43	Private Practice, New York (tp).....	88
44	Assistant Corporation Counsel, New York City (tp).....	88

ADMINISTRATIVE LAW JUDGE—GS-16 REGISTER—Continued

Standing	Eligible	Rating
45	Private Practice-Circuit Attorney, Missouri (tp)-----	88
46	Private Practice, Wisconsin-----	88
47	Private Practice, New York (tp)-----	88
48	Private Practice, Texas (tp)-----	88
49	Assistant Attorney General, Rhode Island (tp)-----	88
50	Administrative Law Judge, SSA-----	88
51	Assistant U.S. Attorney, Department of Justice (tp)-----	87
52	Attorney, CAB (tp)-----	87
53	Administrative Law Judge, SSA (tp)-----	87
54	Supervisory Attorney-Advisor, ICC (tp)-----	87
55	Regional Attorney, Department of Agriculture (tp)-----	87
56	Administrative Law Judge, SSA (tp)-----	87
57	Private Practice, Florida (tp)-----	87
58	Private Practice, Wisconsin (tp)-----	87
59	Private Practice, Kansas (tp)-----	87
60	Attorney-Corporation, Missouri (tp)-----	87
61	Private Practice, Virginia (tp)-----	87
62	Private Practice, Virginia (tp)-----	87
63	General Attorney, NLRB (tp)-----	86
64	Administrative Law Judge, SSA (tp)-----	86
65	Administrative Law Judge, SSA (tp)-----	86
66	Hearings & Appeals Officer, SSA (tp)-----	86
67	Bankruptcy Referee, U.S. District Court (tp)-----	86
68	Administrative Law Judge, Department of Labor (tp)-----	86
69	Administrative Law Judge, SSA (tp)-----	86
70	Administrative Law Judge, SSA (tp)-----	86
71	Assistant Chief, Civil Division, Department of Justice (tp)---	86
72	State Judge, Oklahoma (tp)-----	86
73	Circuit Judge, Illinois (tp)-----	86
74	Private Practice, Washington (tp)-----	86
75	Private Practice, West Virginia (tp)-----	86
76	Administrative Law Judge, SSA-----	86
77	Administrative Law Judge, SSA-----	86
78	Trial Attorney, Antitrust Division, Department of Justice---	86
79	Appellate Judge, New Mexico-----	86
80	Administrative Law Judge, SSA (tp)-----	85
81	Attorney, FTC (tp)-----	85
82	Private Practice, Florida (tp)-----	85
83	Administrative Law Judge, SSA (tp)-----	85
84	Administrative Law Judge, SSA (tp)-----	85
85	Attorney, FTC (tp)-----	85
86	Administrative Law Judge, SSA (tp)-----	85
87	Deputy Bureau Director, FMC (tp)-----	85
88	Assistant Regional Attorney, NLRB (tp)-----	85
89	Hearing Officer, Department of Labor (tp)-----	85
90	Administrative Law Judge, SSA (tp)-----	85
91	Vice Chairman, Board of Contract Appeals, Nuclear Regu- latory Commission (tp)-----	85
92	Assistant Corporation Counsel, New York City (tp)-----	85
93	Private Practice, Florida (tp)-----	85
94	Hearing Officer, New York City (tp)-----	85
95	Private Practice, West Virginia (tp)-----	85
96	Staff Attorney, Legal Aid, California (tp)-----	85
97	Administrative Law Judge, SSA-----	85
98	Attorney-Advisor, Occupational Review Commission-----	85
99	Attorney-Advisor, ICC-----	85
100	Member, GSA Board of Contract Appeals-----	83
101	Member, Licensing Panel, Nuclear Regulatory Commission---	83
102	Trial Attorney, IRS-----	83
103	Administrative Law Judge, SSA-----	82
104	Hearing Officer, Department of Labor-----	82
105	Member, Appeals Council, SSA-----	82
106	Administrative Law Judge, SSA-----	82

ADMINISTRATIVE LAW JUDGE—GS-16 REGISTER—Continued

Standing	Eligible	Rating
107	Private Practice, District of Columbia.....	82
108	Private Practice, Washington State.....	82
109	Assistant U.S. Attorney, Department of Justice.....	81
110	Assistant Attorney General, New York State.....	81
111	Trial Attorney, IRS.....	80
112	Chief Trial Attorney, Navy Contract Appeals.....	80
113	Attorney-Advisor, ICC.....	80
114	Attorney-Advisor, ICC.....	80
115	Private Practice, Missouri.....	80
116	Chairman, Public Utility Commission, Massachusetts.....	80
117	Private Practice, New Jersey.....	80

Appendix E. Certificate of Eligibles – Civil Service Commission

STANDARD FORM 39 (Revised) U.S. CIVIL SERVICE COMMISSION JULY 1971—FORM 332		CERTIFICATION FORM		CERTIFICATE NO. AJ-77-14
				DATE ISSUED 12/10/76
I. REQUEST				
DEPARTMENT OR AGENCY Department of Health, Education and Welfare		BUREAU OR FIELD ESTABLISHMENT Bureau of Hearings and Appeals, SSA		REQUEST NO. BHA-76-143
				DATE 12/6/76
U.S. Civil Service Commission Office of Administrative Law Judges Room 2470 Washington, D. C. 20415			This request should be sub- mitted to the office of the Commission having jurisdic- tion over the work location named unless special prior agreement has been reached with the Commission.	
VACANCIES, POSITION TITLE, SERIES CODE, GRADE (SALARY, IF UNGRADED) AND DUTY LOCATION (1) Administrative Law Judge, GS-933-15 (location below)				TYPE OF APPOINTMENT <input type="checkbox"/> Career or Career-Conditional (Absolute) <input type="checkbox"/> Temporary not to Exceed
J WHAT EXTENT WILL PERSONS APPOINTED BE REQUIRED TO TRAVEL? <input type="checkbox"/> NOT AT ALL <input checked="" type="checkbox"/> OCCASIONALLY <input type="checkbox"/> FREQUENTLY		D—FOR FILING DEPARTMENTAL POSITIONS ONLY F—FOR FILING FIELD POSITIONS ONLY		
REQUEST RELATES SOLELY TO REQUIREMENTS OF THE MERIT PROMOTION PROGRAM <input type="checkbox"/>		AVAILABLE FOR WORK: <input checked="" type="checkbox"/> IMMEDIATELY <input type="checkbox"/> BY _____		
REMARKS: (Give a description of duties where no standard specifications are published, and indicate any special qualifications required)				
Position description attached.				
Tulsa, Oklahoma				
ADDRESS WHERE CERTIFICATE IS TO BE SENT: Personnel Management Branch Bureau of Hearings & Appeals, SSA Post Office Box 2518 Washington, D. C. 20415 ATTN: Mr. Ralph Myers			FOR FURTHER INFORMATION CONTACT: (Name) Ralph Myers (Tel.) 235-8591 APPROVED BY: <i>[Signature]</i> Acting Chief, (Name) Recruitment and (Title) Placement	
II. CERTIFICATION <i>Please Review Instructions on Back of Form</i>				
TO REQUESTING OFFICE: <input type="checkbox"/> The attached list of eligibles is provided in response to the above request. PLEASE RETURN WITHIN 21 DAYS OF DATE ISSUED OR BY _____ <input type="checkbox"/> Authority is granted to recruit through the open competitive examination for appointment to the position(s) indicated above. Applications of persons recruited should be FORWARDED WITHIN 30 DAYS OF DATE ISSUED OR BY _____ <input type="checkbox"/> Authority is granted to fill the position(s) identified above under CS Reg. 316.402(A).				
III. REPORT <i>Please Review Instructions on Back of Form</i>				
TO THE ISSUING OFFICE: Report on certificate is submitted and original applications (and attachments) of eligibles not selected for appointment returned. <input type="checkbox"/> WE DESIRE FURTHER CERTIFICATION FOR _____ VACANCIES.				
SIGNATURE OF APPOINTING OFFICER		TITLE	DATE	

<small>FOR USE ONLY of the United States Government use only.</small>	CERTIFICATE OF ELIGIBLES <small>(Continuation Sheet)</small>	<small>FORM 28-57</small> PAGE NO. 2
<small>ACTION</small>	<small>TRAINING</small>	<small>VET. PREG.</small>
<small>NAME ADDRESS AND PHONE, IF ANY, ARE SHOWN IF APPLICATION IS NOT ATTACHED</small>		

Notification of Personnel Action, Standard Form 50, issued to an eligible selected from this certificate shall bear the following notation: "This appointment is made subject to an investigation and a security clearance by the employing agency under Public Law 733, 81st Congress, 2nd Session, as extended by Executive Order 10450. Also, subject to investigation as provided by Civil Service Regulation 930.203, published September 4, 1968".

- 100 xp 1. U.S. Attorney, Department of Justice
- 90 cp 2. Administrative Law Judge, SSA
- 90 tp 3. Attorney Advisor, ICC
- 88 tp 4. Administrative Law Judge (Temp), SSA
- 86 tp 5. Chief, Legal Branch, EPA
- 85 tp 6. Attorney, Board of Veterans Appeals

(NOTE: Certificate returned. Position not to be filled at this time.)

Appendix F. Request and Denial; Converting Appointments by Regulations

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D.C., January 4, 1977.

Mr. ROBERT L. TRACHTENBERG,
Director, Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. TRACHTENBERG: This has reference to your letter of August 23, 1976, accompanied by a Standard Form 59 (Request for Approval of Noncompetitive Action) and justification dated November 9, 1976. Your request exercise of the authority contained in 5 CFR 930.203(d) which deals with the appointment of incumbents of newly classified Administrative Law Judge positions. Your request was submitted in respect to the former SSI Hearing Examiners covered by P.L. 94-202. In your justification you further indicate that, if the regulation is applicable and the employees can be converted to permanent status on a non-competitive basis, the positions should be reclassified from GS-14 to GS-15 and that the Commission should consider granting an exception to the promotion restriction contained in the "Whitten Amendment" for those employees who have not been in-grade for one year.

In your August 23 submission you indicated the application was being filed at that time to comply with the time limitation in the regulation. You requested advice in the event your submission proved to be untimely. No response was made to your letter since your request appeared to have been submitted within the time period contained in 5 CFR 930.203(d)(3).

In your justification of November 9, you appear to express some uncertainty whether the above-referenced regulation is applicable. In this connection, it is pointed out that while the regulation may be the proper means on which to base a request to consider the noncompetitive conversion of certain employees, it does not appear to be the proper ground on which to request reclassification or a waiver of the Whitten Amendment.

Concerning the applicability of 5 CFR 930.203(d), this regulation was issued—although with slightly different terminology—in 1950 and has been considered by the Commission on two occasions, following decisions by the U.S. Supreme Court in the cases of *Wong Yang Sung v. McGrath*, 339 U.S. 33 (1950) and *Riss and Company, Inc. v. U.S.*, 341 U.S. 907 (1951).

In these cases, the Supreme Court concluded that certain administrative hearings in the Immigration and Naturalization Service (deportation) and the Interstate Commerce Commission (certificate of authority) had to conform to the requirements of the Administrative Procedure Act. Parenthetically, shortly after *Wong Yang Sung*, Congress exempted deportation hearings in the Immigration and Naturalization Service from the Administrative Procedure Act (P.L. 843, 81st Congress). In any event, apart from holding that certain hearings had to conform with the provisions of the Administrative Procedure Act, neither decision dealt with the tenure of the incumbents of the positions.

In the present situation, Section 3 of P.L. 94-202 required on-the-record adjudication of Supplemental Security Income cases (which, on the basis of previous legislation, had been held to be outside the purview of the Administrative Procedure Act). Thus, the positions were classified by the Commission as Administrative Law Judge positions on March 4, 1976. However, unlike the decisions in *Wong Yang Sung* and *Riss* which did not address the tenure issue thereby permitting consideration of administrative reasons for conversion, Section 3 of P.L. 94-202 and its accompanying report go beyond the on-the-record requirement, deal with the tenure issue and the procedure to be utilized in making appointments. Section 3 and the report, on review, preclude an exercise of the authority in 5 CFR 930.203(d) to approve noncompetitive actions. Section 3 of P.L. 94-202 resulted in the establishment of temporary positions by limiting the appointments of the incumbents to December 31, 1978; and the directions in the accompanying report indicate that noncompetitive actions were not intended. The report, for instance, states that the Committee believes that a supply of APA hearing officers

can be obtained from the incumbents who meet or will meet the requirements for "regular appointments"; further, that the incumbents would "be afforded the opportunity to be placed on the register for *regular ALJ appointment on a merit basis under regular civil service procedures*" (italic supplied).

Under the circumstances, in light of the provision in the Public Law and the directions in the accompanying report, favorable action on your request to approve noncompetitive appointments would not be consistent with Congressional direction or consistent with competitive merit principles.

In your letter you further discuss the grade level of the position in the event permanent appointments are found to be appropriate and request reclassification to GS-15. The Commission is unable to take action on your request under 5 CFR 930.203(d) since it does not provide for classification determinations.

However, considering your request on its own merits, we note that the duties and responsibilities of the position were given a careful study by the Civil Service Commission on two occasions in 1973; and that a further review was made in 1975. When the position was changed following enactment of P.L. 94-202, it was reclassified to GS-14 in March 1976. This allocation, it is noted, had the approval of the Department and the Social Security Administration. Based upon a further study, we are unable to find anything in the record indicating any change in the position to warrant reallocation to the GS-15 level.

For the reasons indicated above, we are unable to approve the request contained in your letter of August 23, 1976. The Standard Form 59 submitted with your letter is returned herewith.

Sincerely yours,

ROBERT E. HAMPTON, *Chairman.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
Washington, D.C., November 15, 1976.

Mr. CHARLES DULLEA,
Director, Office of Administrative Law Judges, Civil Service Commission, Washington, D.C.

DEAR MR. DULLEA: This supplements my letter to you of August 23, 1976, and provides justification for the conversion of the 195 temporary administrative law judges to the permanent GS-15 administrative law judge position (Agency Position No. 6679).

Pursuant to Section 3 of Public Law 94-202, which was approved on January 2, 1976, persons who were appointed as hearing examiners in accordance with section 1631(d)(2) of the Social Security Act as in effect prior to enactment of Public Law 94-202, were deemed to be hearing examiners appointed under 5 U.S.C. 3105 and subject as such to all other pertinent provisions of title 5 applicable to individuals appointed thereunder. The appointments covered by Section 3 of Public Law 94-202 shall terminate not later than December 31, 1978.

Public Law 94-202 authorized these individuals to conduct hearings and render decisions with respect to requests for hearings under titles II, XVI, and XVIII of the Social Security Act, if the Secretary of Health, Education, and Welfare found that it would promote the achievement of the objectives of these titles. The Secretary, on March 3, 1976, determined that it would promote the achievement of titles II, XVI, and XVIII of the Act to have these individuals hold hearings and render decisions with respect to requests for hearings under such titles. The Secretary directed me to implement his finding, including the designation of specific categories of cases to be assigned to the new ALJs. I determined that the new ALJs would be utilized to hear and decide cases arising under title XVI and, in addition, under title II where the appeal involved issues under section 216(i) (period of disability) and section 223 (disability insurance benefits) of the Social Security Act. This decision was taken so that the new ALJs would become productive in the shortest period of time and to alleviate the need to provide the orientation necessary to handle the more complex issues.

The new ALJs were given the organizational designation of administrative law judge (temporary) and were promoted to GS-14 pursuant to a position description approved by your office on March 4, 1976. The effective date of the promotions for most individuals was April 11, 1976.

Public Law 94-202 also brought title XVI hearings under the Administrative Procedure Act, and the hearing examiners appointed under the former section 1631(d)(2) of the Social Security Act are deemed to be hearing examiners appointed under 5 U.S.C. 3105. Section 930.203(d) of the Civil Service Commission regulations covers the appointment of incumbents of newly classified administrative law judge positions and provides as follows:

"Appointment of incumbents of newly classified administrative law judge positions. An agency may appoint as an administrative law judge an employee who is serving in a position which is classified as an administrative law judge position on the basis of legislation * * * if:

(1) He has a competitive status or was serving in an excepted position under a permanent appointment;

(2) He was serving in the position on the date of the legislation, * * * on which the classification of the position is based;

(3) The Commission receives a recommendation for his appointment from the agency concerned not later than six months after classification of the position on the basis of the legislation * * *; and

3. Despite the assurances in Chairman Hampton's recent letter to the Commissioner that a new evaluation will be instituted, we continue to believe, as stated in our July 16, 1976, letter, that vouchering of the present ALJs(T) is a real and not imagined problem, and it undermines the justice we administer. This problem will be eliminated if the Commission grants this request.

4. Finally, we have a proven group of employees who have met the challenges of their job in the SSI and black lung areas—and, as important, they are available to meet the challenges of the full range of Social Security programs. We are thus faced with a unique situation. If the Commission fails to utilize its authority, there will be an even greater negative impact on the incentive of the ALJs(T). The resulting harm to the public must be considered.

If we are correct regarding the applicability of the regulation to the issue of permanent appointment, then the question becomes the grade at which the position should be set.

As you know, the position description which we submitted to you limited the duties of the new administrative law judges (temporary) to cases arising under title XVI and II. In view of this limited jurisdiction, a GS-14 was approved for the position.

We soon realized, however, that the limited jurisdiction did not permit the most effective use of these persons, and it has already caused problems in hearing offices. It has resulted in some instances in delays and scheduling problems, particularly in those areas where the title XVI workload is relatively light, and in assigning

cases in geographical areas wherein the presiding officer must do substantial travel to hearing sites. The individuals appointed under former section 1631(d)(2) have shown that they are fully competent to handle all categories of cases coming before this Bureau.

We feel strongly that the position must be classified no lower than GS-15, the journeyman level for permanent ALJs in BHA, for the many sound reasons you enunciated in opposition to a multi-level hearings officer corps when a previous proposal to that effect was submitted by the Department to CSC.

Although Public Law 94-202 states that the "appointments shall terminate *not later than* at the close of the period ending December 31, 1978," (emphasis added), that is not a bar to permanent noncompetitive appointments under the Civil Service Commission's existing regulations. Nor do we see it as doing violence to the legislative intent. Although the legislative history indicates that GS-14 would be an appropriate classification for those individuals affected by the bill, the actual classification, of course, is the responsibility of the Civil Service Commission, and your earlier classification decision establishing the grade at GS-14 was, as noted above, based upon a far more limited position description.

If you agree with our position regarding the applicability of the regulation, we may request that CSC consider granting an exception to the promotion restriction of the so-called "Whitten Amendment," or such other relief as may be appropriate for those ALJs who have not been in grade for one year. We would be pleased to supply any documentation you need as to the individual's qualifications, and would initiate a request to the Department to submit the appropriate documentation for those individuals who have not been in grade for one year upon approval of such a waiver.

It goes without saying that we did not realize either at the time that P.L. 94-202 was being considered or when the GS-14 position description was submitted to you for approval that the referenced regulation was applicable. Because it clearly is applicable and because the administrative reasons noted above support such a result, I am obliged to make the requests herein contained.

Your early approval of our requests will be appreciated.

Sincerely,

ROBERT L. TRACHTENBERG, *Director.*

**Appendix G. Table of Individuals on Register Showing Acceptable Locations—
1975 Certificate**

Applicant Standing on Register	Point Rating and Veteran's Prof. ferences	Atlanta, Ga.	Birmingham, Ala.	Boston, Mass.	Charleston, W. Va.	Charlotte, N.C.	Charlottesville, Va.	Chattanooga, Tenn.	Cleveland, Ohio	Dallas, Tex.	Detroit, Mich.	Evansville, Ind.	Flint, Mich.	Houston, Tex.	Huntington, W. Va.	Indianapolis, Ind.	Jenkintown, Pa.	Johnstown, Pa.	Kingsport, Tenn.	Lansing, Mich.	Lexington, Ky.	Little Rock, Ark.	Long Beach, Calif.	Mableton, Ohio.	Los Angeles, Calif.	Milwaukee, Wis.	Nashville, Tenn.	New Orleans, La.	Paduah, Ky.	Pasadena, Calif.	Phoenix, Ariz.	Pittsburgh, Pa.	Portland, Maine	Providence, R.I.	Richmond, Va.	Roanoke, Va.	Sacramento, Calif.	San Francisco, Calif.	San Jose, Calif.	Santa Ana, Calif.	Shreveport, La.	Spartanburg, S.C.	Wilkes-Barre, Pa.	Yonkers, N.Y.	San Juan, P.R.
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 95 80 12 39 2 28 19 20 38 24 14 27 31 23 13 32 26 11 41 37 22 33 40 8 29 7 30 36 15 35 10 21 34 1 3 17 18 4 5 6 9 42 25 16
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 97 80 1 3 2
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 99 80 13 6 11 9 10 2 7 .. 12 5 4
 100 80 8 1 3 12 .. 8 11 .. 9 .. 6 .. 14 13 10 5
 101 80 3 4 2 6 7 12 10 6 12 # #
 102 80 9 # 8 5 3 .. # # 7 4 10 .. # .. 6 .. 1 2 # #
 • 103 81 tp
 • 104 87 tp
 • 105 81

73

NOTE: Numbers in columns indicate order of location preference while # indicates acceptable location but no order of preference. No entries at all indicate that no locations were acceptable or that no reply was received by EHA. Forty-six individuals indicated that they would take appointments in one or more locations, 16 individuals gave just one location. EHA made 28 offers of appointment but 4 declined the final offer. 24 individuals were actually appointed off this certificate.
 SR and SR indicate 10 points veteran's preference; TP indicates 5 points veteran's preference; * indicates eligible for Puerto Rico only.



CONVERSION OF TEMPORARY ADMINISTRATIVE LAW JUDGES

SEPTEMBER 22, 1977.—Ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 5723, which on March 29, 1977, was referred jointly to the Committee on Post Office and Civil Service and the Committee on Ways and Means]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5723) to provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SCOPE

The purpose of H.R. 5723 is to convert to regular Administrative Law Judges (ALJ's) the temporary ALJ's who were appointed under Public Law 94-202 to hear cases under titles II, XVI, and XVIII of the Social Security Act through 1978. These hearings officers have been conducting hearings under the provisions of the Administrative Procedure Act (APA) in the same manner as regular ALJ's. It was the intention of your committee in 1975 that they generally would be converted to the same status, tenure, and compensation as regular ALJ's. Moreover, such a development is highly appropriate since they are doing the same work as regular ALJ's in an equally effective manner.

GENERAL DISCUSSION

This legislation is necessary because the Civil Service Commission has disregarded the legislative intent of Public Law 94-202, clearly expressed in the reports of the Ways and Means Committee and the Senate Finance Committee, that these hearings officers would be expeditiously converted to regular ALJ status with "great weight" being given to their extensive experience adjudicating the social security definition of disability. After over 19 months only a handful

of hearing officers have been appointed to regular positions and not many more are on the Civil Service Commission current register. The turn down rate of temporary ALJ's by Civil Service is about 50 percent. This has very adversely affected the morale of this group of hearing officers at a time when the backlog of hearings cases is increasing. They are greatly concerned that their appointments will expire before they are qualified by the Civil Service Commission and have reason to feel discriminated against in that they are paid at a lower rate for work comparable to that of regular ALJ's.

One of the principal objectives of Public Law 94-202, signed by President Ford on January 2, 1976, was to make it irrefutably clear that Congress intended that SSI adjudications were under the Administrative Procedure Act and that SSI hearing examiners could hear all types of social security cases. The idea was that the Bureau of Hearings and Appeals in dealing with the "appeals crisis" should not be forced to operate within the straightjacket imposed by the 1973 Civil Service Commission's interpretation which the Ways and Means Committee and ultimately the Congress stated in enacting Public Law 94-202 was inconsistent with the intent of Congress when the SSI program was enacted.

The process of merit selection envisioned by your committee has not and is not taking place. The Civil Service Commission, Office of Administrative Law Judges, appears incapable of making a meaningful assessment of which of the temporary ALJ's would do effective jobs as regular ALJ's. Their current selection procedures are not so much based on a determination of an individual's ability, experience, and skills to do the job of a Social Security ALJ, but are based on (1) his previous GS-grade rating or his "status" as a private attorney as evidenced by the level of the court in which he may have appeared as counsel, and (2) a subjective evaluation of a skeletal rating form circulated to various former employers, judges, and counsel who have appeared before him.

The Civil Service Commission's latest administrative proposal to forestall this legislation does not address the basic reason that the temporary ALJ's are not qualifying for the appointment register—lack of credit for the actual adjudication of social security cases for a substantial period of time. This experience is the most valuable and pertinent in appointing regular Social Security ALJ's but it, contrary to the legislative history, has been substantially ignored.

Your committee regrets that it must by-pass the Civil Service Commission's appointment procedures because they are incapable of dealing with this situation. However, the original HEW appointment procedures established in 1974 for the SSI hearing examiners were almost identical to those used by the Civil Service Commission under the APA. Your committee is aware that there is a very small group of ALJ(T)'s and regular ALJ's who are not producing the number and quality of decisions which will enable the Bureau of Hearings and Appeals to meet its statutory responsibilities. Your committee is also aware that no ALJ's have been removed for such reasons even though there have been numerous instances where either singly or in combination the following conduct has existed:

- (1) Consistently bad decision writing which prevents proper award implementation;
- (2) Lack of documentation of cases so that decisions are chronically decided on insufficient evidence;
- (3) Blatant disregard to applicable law, regulation, and Social Security ruling; and
- (4) A level of production of cases clearly inconsistent with the workloads and requirements of the Social Security program.

Your committee emphasizes that such conduct by a few individuals is not characteristic of the performance of the corps of Social Security ALJ's who are responding to the continuing appeals crisis in an exemplary manner. Your committee is also fully aware that the ALJ's independence from agency control must be safeguarded in accord with the provisions and spirit of the Administrative Procedure Act but "career-absolute" status is not a license for the complete neglect of a reasonable standard of conduct and job performance. The Chairman of the Civil Service Commission has written in answer to the question whether lack of productivity can be proper cause of adverse action by an agency:

The independence provided by the Administrative Procedure Act (the Commission classifies Administrative Law Judge positions and determines good cause for removal) is to safeguard the decisional process. Thus, apart from his decisional independence, the Administrative Law Judge is an employee of the agency, fully responsible and accountable for his conduct and performance of duty, and adherence to reasonable standards of production, if such standards have been established by the agency . . . "it should be the policy of all agencies to establish and enforce reasonable and realistic standards of performance in terms of work produced and time expended. Programs of this type dealing with standards and more effective case management have been established in a number of State and Federal courts. We are unaware of any impediment, legal or otherwise, to justify withholding the establishment and implementation of like programs from one class of employees."

The committee has been advised of, and supports the Bureau of Hearings and Appeals' position that failure to meet production goals will not be used as a basis of an adverse action, but that such action shall only be taken where an ALJ consistently fails to perform at a minimal level after proper warning is given and reasonable assistance is provided to increase productivity. The committee commends the Social Security Administration for its efforts and the success achieved in increased ALJ productivity but the agency must sustain quality by review of cases and adequate quality assurance.

The Civil Service Commission has indicated that it will take action against deficient ALJ's under the Administrative Procedure Act to remove "for cause" if charges are brought by the employing agency and they are sustained after a hearing. Although the Bureau of Hearings and Appeals maintains that such actions are "difficult and complex" they are in the process of preparing charges in a number of appropriate cases. This action is to be commended and encouraged.

ANALYSIS OF H.R. 5723

H.R. 5723 would provide that the hearing officers appointed under section 1631(d) (2) of the Social Security Act (as in effect prior to January 2, 1976) to hold hearings under the supplemental security income program who had been deemed to be appointed under and governed by the provisions of the Administrative Procedure Act of Public Law 94-202, shall be appointed to career-absolute ALJ positions as if they had been appointed under the Administrative Procedure Act, section 3105 of title 5, United States Code. They would have the same authority and tenure as hearing examiners appointed directly under section 3105 and be compensated at the same rate as Social Security ALJ's (GS-15). All provisions of the Administrative Procedures Act shall apply to them in the same manner as they apply to other Administrative Law Judges. The former temporary Black Lung ALJ's who were appointed as temporary ALJ's under the authority of Public Law 94-202 are fully covered by this provision.

MATTERS TO BE DISCUSSED UNDER RULES OF THE HOUSE

In compliance with clause 2(1) (2) (B) of rule XI of the House of Representatives, the following statement is made relative to the vote by your committee on the motion to report the bill. The bill was ordered reported by voice vote.

In compliance with clause 2(1) (3) (A) of rule XI of the Rules of the House of Representatives, the following statement is made relative to oversight findings by your committee. As a result of investigations conducted by the Subcommittee on Social Security and the Subcommittee on Oversight, your committee concluded that it would be desirable to enact this legislation.

In compliance with clause 2(1) (3) (C) of rule XI of the Rules of the House of Representatives, your committee was advised by the Director of the Congressional Budget Office that since it was the intent of Public Law 94-202 that this conversion take place by this time any additional salary costs would have already been taken account of in the budget.

In compliance with clause 2(1) (3) (B) of Rule XI of the Rules of the House of Representatives, the following statement is made. Enactment of H.R. 5723 would not result in any new budget authority or increased tax expenditures.

In compliance with clause 2(1) (3) (D) of rule XI of the Rules of the House of Representatives, your committee states that no oversight findings or recommendations have been submitted to your committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause 2(1) (4) of rule XI of the Rules of the House of Representatives, your committee states that this bill would not have any inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of the bill: The enactment of H.R. 5723 would not add to the cost of the social security program and should result in some saving to the program since the cost of hiring and training new hearing officers would be required without it.



CONVERSION OF TEMPORARY ADMINISTRATIVE
LAW JUDGES

OCTOBER 31, 1977.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mrs. SCHROEDER, from the Committee on Post Office and Civil
Service, submitted the following

REPORT

together with

MINORITY AND DISSENTING VIEWS

[Including cost estimate of the Congressional Budget Office]

[To accompany H.R. 5723 which on March 29, 1977, was referred jointly to the
Committees on Post Office and Civil Service and Ways and Means]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 5723) to provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

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

That section 3 of the Act of January 2, 1976, entitled "An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes" (Public Law 94-202; 42 U.S.C. 1383 note) is amended by striking out "but their appointments shall terminate not later than at the close of the period ending December 31, 1978, and during that period" and inserting in lieu thereof "and their appointments shall be on a nontemporary basis, and".

Sec. 2. (a) Effective at the beginning of the first pay period beginning after the date an individual in a temporary ALJ position meets the minimum qualifications for appointment under section 3105 of title 5, United States Code, the grade of any temporary ALJ position he holds shall be the minimum grade in effect on October 1, 1977, for any position under such section 3105, but only for so long as he continues in such a temporary ALJ position without a break in service of 1 work day or more.

(b) For purposes of this section, the term "temporary ALJ position" means any position to which the provisions of section 3 of the Act of January 2, 1977, applies.

Amend the title so as to read:

A bill to provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall be deemed appointed as administrative law judges.

EXPLANATION OF AMENDMENT

The committee amendment to H.R. 5723 substitutes an entirely new text for the text of the introduced bill. The explanation of the provisions of the substitute text is contained in the explanation of the bill as set forth hereinafter in this report. The title of the bill is amended to conform to the substitute text.

PURPOSE

The purpose of H.R. 5723, as amended by the committee, is to repeal that provision of Public Law 94-202 which provides that the appointments of certain "temporary" administrative law judges will terminate on December 31, 1978, thereby making such appointments permanent; and to insure that an individual holding such a "temporary" position will be entitled to have his position classified at grade GS-15 of the General Schedule as soon as he meets the minimum qualifications for appointment as a statutory administrative law judge under section 3105 of title 5, United States Code.

COMMITTEE ACTION

H.R. 5723 was introduced by Mr. Burke on March 29, 1977, and was jointly referred to the Committee on Post Office and Civil Service and the Committee on Ways and Means. The Subcommittee on Employee Ethics and Utilization held hearings on the bill on May 3 and 5, 1977 (Serial No. 95-9), but postponed any action on the bill at that time in the hope that the problems to which the bill was directed could be administratively resolved. An administrative solution was not forthcoming and on September 27, 1977, the subcommittee, by a record vote of 3 to 2, approved H.R. 5723 with an amendment striking out all after the enacting clause and substituting an entirely new text. On October 12, 1977, the Committee on Post Office and Civil Service, by a record vote of 12 to 5, ordered the bill reported, as amended by the subcommittee.

BACKGROUND

The Administrative Procedures Act (APA) of 1946 (now codified as 5 U.S.C. 551 et seq) is the general scheme under which rule making and adjudicatory procedures are carried out by agencies in the executive branch. Section 556 of title 5 requires that (unless the agency itself presides) administrative law judges (ALJ's) shall preside over all rule making or adjudicatory proceedings to which the APA applies.

To insure independence and impartiality, the APA provides certain statutory protections to ALJ's. For example, although each agency

appoints its own ALJ's (5 U.S.C. 3105), it may appoint only those individuals who the Civil Service Commission has certified as qualified. In addition, ALJ's are exempt from performance evaluations by their agencies (5 U.S.C. 4301); receive step increases in pay without agency certification of satisfactory performance (5 U.S.C. 5335); and may only be removed for cause established by the Commission (not their employing agency) (5 U.S.C. 7521).

ALJ positions are established at grades GS-15, GS-16, or GS-17 according to the level of the duties and responsibilities of each position. With respect to GS-15 and GS-17 ALJ positions, section 5108(a) of title 5, United States Code, provides that not more than 240 GS-16 and not more than nine GS-17 ALJ positions may be established. The number of GS-15 ALJ positions is controlled by the availability of funds to pay such ALJ's and Civil Service Commission action to provide certificates to agencies of individuals who have been certified as meeting the necessary qualifications. There are now about 730 GS-15 ALJ's in the Government, the vast majority of whom are employed by the Social Security Administration.

In addition to the ALJ's mentioned above, there are now employed at the Social Security Administration 175 individuals in grade GS-14 who are titled temporary ALJ's. Twenty-six of these have qualified for regular ALJ appointments and are awaiting them. The other 149 individuals are the prime concern of H.R. 5723. These individuals, for various reasons, have not yet qualified for ALJ positions although pursuant to Public Law 94-202 they are now conducting Social Security Act hearings required to be conducted according to the APA. These temporary ALJ positions will, by operation of the same public law, expire on December 31, 1978.

The problem of temporary ALJ's began as a result of Public Law 92-603, the Social Security Amendments of 1972, which, among other things, established the present Supplemental Security Income (SSI) program. The amendment made by that law provided that SSI cases would be adjudicated with "reasonable notice and opportunity for a hearing". These words were meant to trigger the application of the APA to SSI adjudications. However, the amendments made by that law further provided that:

To the extent the Secretary [of Health, Education, and Welfare] finds it will promote the achievement of the objectives of this title, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.

An ambiguity was thus presented by the statute. It meant to apply the APA to SSI cases, but it did not specifically require APA hearing examiners since it permitted the Secretary of Health, Education, and Welfare to appoint ALJ's without Civil Service Commission approval. Consequently, in 1972, when the Secretary of HEW requested the Civil Service Commission to supply ALJ's for SSI cases, the Commission refused. The Commission believed that since the Secretary had independent authority to appoint hearing examiners, SSI cases technically did not fall under the APA. The Commission had ample basis for denying the request. When faced with the question of whether or

not the APA (enacted in 1946) applied to the Social Security Act (enacted in 1935), and a Court of Appeals decision holding that the APA did not apply, the Supreme Court, in the case of *Richardson v. Perales*, 402 U.S. 389 (1971), had stated:

We need not decide whether the APA has general application to Social Security disability claims, for the Social Security administrative procedure does not vary from that prescribed by the APA. Indeed, the latter is modeled upon the Social Security Act. (402 U.S. at 409).

In other words, the Court found the relevant issue to be one of due process guarantees under the Constitution and not whether one statutory means of insuring due process (the APA) or another (the Social Security Act) was controlling.

After 1½ years of dispute within the executive branch, the Civil Service Commission prevailed on the ALJ issue. HEW by necessity settled for non-APA hearing officers to preside at SSI hearings. On December 14, 1973, the Civil Service Commission advised the Secretary of HEW to appoint, under his own authority, hearing examiners at grade GS-13, and an appropriate number of supervisory hearing examiners at grade GS-14.

As a result, there were three groups of hearing officers at HEW working on social security cases. The largest group, Commission certified ALJ's, were appointed under the APA. They heard social security and medicare appeals under statutes which required APA procedures. Another group, appointed as hearing examiners under section 1631 (d) (2) of the Social Security Act, could hear only SSI cases. A third group, black lung ALJ's, were appointed under separate agency authority to hear only black lung cases, which also were not under the APA.

HEW took on more hearing examiners. However, the caseload continued to grow as the following chart illustrates:

	Fiscal year—				
	1971	1972	1973 ¹	1974	1975
Hearing requests.....	52,427	103,691	72,202	121,504	154,962
Dispositions.....	45,301	61,030	68,356	80,783	121,026
Cases pending (end of year backlog).....	20,873	63,534	86,780	77,233	111,169
Number of presiding officers.....	295	392	462	503	613
Backlog per presiding officer.....	71	162	80	154	181
Annual average production for an experienced presiding officer.....	162	180	188	193	227

¹ During 1973, 30,600 black lung cases were remanded for decision at a lower level because of a change in the criteria for eligibility. But for this remand, the number of hearings requested in FY 1973 would be approximately 102,802.

Source: GAO report, "Problems and Progress in Holding Timelier Hearings for Disability Claimants," Oct. 1, 1976 (HRD-76-173), p. 4.

In five years, even though the number of hearing examiners had more than doubled and the productivity of hearing examiners had increased by 50 percent, requests for hearings had tripled and pending cases had quadrupled. The system was immensely overworked.

By the end of 1975, a backlog of more than 100,000 cases under title XVI (SSI), title II (Old-Age, Survivors, and Disability Insurance Program (OASDI)), and title XVIII (Medicare) of the Social Security Act had built up. In an attempt to reduce the backlog, the

Committee on Ways and Means reported, and Congress enacted, Public Law 94-202 which clearly placed all social security cases (OASDI, SSI, and medicare) under the APA. Public Law 94-202 also authorized HEW-appointed hearing examiners to hear all three types of cases, and provided that for a 3-year period (expiring December 31, 1978) HEW-appointed hearing examiners would be deemed to be temporary Administrative Law Judges.

In its report on the bill (H. Rept. 94-679, 94th Cong., 1st Sess.), the Committee on Ways and Means explained the provision providing for this conversion as follows:

The Committee bill also grants authority for those SSI hearing examiners (who have been appointed under section 1631(d)(2)) to hear cases under titles II, XVI, and XVIII until December 31, 1978 as temporary Administrative Law Judges if the Secretary of HEW finds it will promote the achievement of the objectives of these titles. It is the Committee's understanding that the Secretary will make this finding as to all SSI hearing examiners who have been appointed. The Committee also understands that now virtually all the temporary Black Lung judges hold SSI hearing examiner appointments and this would provide the Bureau of Hearings and Appeals the 200 judges it needs to reduce the backlog. Furthermore, by the end of 1978, all SSI examiners will have acquired sufficient adjudication experience to meet the experience requirement for appointment as regular ALJs. They would, as they met the experience requirement, be afforded the opportunity to be placed on the register for regular ALJ appointment on a merit basis under the regular Civil Service procedures.

It is hoped that these requirements and procedures will be applied in a manner to effectively serve the needs of the Social Security Act programs. The Committee is not convinced that these needs have been adequately served in the past by the Office of Administrative Law Judges, Civil Service Commission. The performance of this office in overruling the administering agency (HEW) in its legal opinion that SSI was under the APA and in downgrading title II social security adjudications as bearing "little resemblance to the full-blown adversarial proceedings conducted by Administrative Law Judges, under the Administrative Procedure Act, in regulatory agencies" does not reflect the will of Congress.

The appointment procedures under which temporary ALJ's received their appointments were similar, but not identical, to the procedures used in appointing ALJ's. First, the procedures used in appointing these temporary ALJ's were administered by HEW rather than the Civil Service Commission. Second, the types of qualifying experience required by HEW differed from those required by Civil Service Commission standards. Third, the minimum legal experience required by HEW was four years rather than seven years. It was contemplated in the Ways and Means Committee report that during the three-year period provided by Public Law 94-202, most of these "temporary ALJ's" would acquire the necessary experience to qualify for regular GS-15 ALJ positions, but the statute itself was silent on the eventual disposition of the temporary ALJ's.

Fifteen months after enactment of Public Law 94-202, and with 31 months to go before the temporary ALJ's would lose their jobs, H.R. 5723 and similar bills were introduced in the 95th Congress. Proponents of these measures contend that the Civil Service Commission has not been meeting the legislative intent of Public Law 94-202 in qualifying temporary ALJ's, even though the statute itself clearly provides for only temporary 3-year appointments and does not mandate permanent appointments to other positions.

Statistics provided by the Civil Service Commission on April 23, 1977, about the time the bills were being introduced, indicated that of the 214 temporary ALJ's, 45 or 21 percent had either been appointed or were on the GS-15 ALJ register; 40 or 18 percent were being processed (5 had tentatively passed and were awaiting oral interviews); 69 or 32 percent had been found ineligible because they had not served the necessary year-in-grade for promotion to GS-15 (as required by the Whitten amendment), they lacked 7 years of qualifying experience, or they received poor evaluations from their peers; and, 60 or 28 percent had not yet applied for the examination.

The latest figures provided to the committee indicate that there are presently 149 "temps" who have not formally qualified for ALJ positions. Of these, 19 have never applied, 15 have been rated ineligible based on insufficient qualifications, 85 are in the examining process, and 13 have tentatively qualified pending only an oral interview.

STATEMENT

The committee amendment will remove the December 31, 1978, expiration date for the 149 GS-14 temporary ALJ's who have not established their eligibility. In addition, the bill will permit immediate upgrading to GS-15 ALJ's as soon as these individuals meet the minimum qualifications for these positions.

The committee believes its bill most satisfactorily meets the competing concerns which have emerged in the debate on the temporary ALJ problem. The committee believes its approach is better than either of the two others which have been proposed: (1) doing nothing or (2) enacting H.R. 5723 as reported by the Committee on Ways and Means.

The committee believes that the job protections which a permanent APA appointed ALJ position offers should not be legislatively extended to individuals without proven qualifications. An ALJ appointment is, in essence, a life time job. Removal of an ALJ whose performance is not up to par is extremely difficult, it not impossible (in the past 30 years, two ALJ's have been removed). An erroneous decision by an ALJ can cause a disabled citizen to starve for want of social security benefits or an airline's stock to plummet upon loss of route application. Each decision of an ALJ is important to the efficiency of the Federal Government and the faith of the people in the Government's fairness and impartiality.

It is not true that there has been discrimination against temporary ALJ's by the Civil Service Commission. The committee notes that 65 of the original 214 temporary ALJ's have already qualified for GS-15 positions by proper merit system competition. This stacks up exceedingly well against the general competition for these jobs. A higher percentage of temporary ALJ's have and are qualifying for APA appointments than are other competitors.

The committee believes its grant of permanent GS-14 status, leaving open the opportunity to qualify for higher levels, will be fair to all. It assures that the temporary ALJ's need no longer be concerned about termination of their employment and, instead, may turn to improving their work output. It assures the Government and future SSI appellants that hearing officers will be in place to hear cases after 1978. It assures that no present GS-15 ALJ, many of whom are former temporary ALJ's who have successfully qualified, will come to believe that his own independence has been diluted by legislation which chips away at a cornerstone of the APA—impartiality. It assures fairness to other applicants for ALJ jobs, who will not find themselves pushed aside for a particular few, 10 percent of whom have even yet to apply for such jobs.

The committee believes that the primary argument advanced for H.R. 5723, as introduced—that it will speed up the decisions in social security cases—ignores the real reasons for the case backlog. Statutorily promoting 175 hearing examiners, regardless of their qualifications, is not an effective means of solving the backlog problem.

In its report of October 1, 1976 (HRD-76-173), the General Accounting Office, after investigation of the caseload situation, found many other factors contributing to the backlog, including a 9-week average for a State to send its cases to the Social Security Administration; a 3-month delay in the Social Security Administration to get cases to hearing officers; problems in re-referring cases from backlogged offices; a 5-week average for physicians to report on disabilities; a 10 week delay in conducting physical examinations; and a 2-month average delay (requested by claimants themselves) for postponement of hearings.

The committee is cognizant of the decision of *Wright v. Matthews* (Case No. 75C 1537, June 6, 1977, ED Ill.) in which a district court found that the case backlog at the Social Security Administration violates the Social Security Act guarantee of prompt payment and requires the court to compel, pursuant to the APA (5 U.S.C. 706), "agency action unlawfully withheld or unreasonably delayed . . ." The order in that case requires final decisions in Social Security cases within 180 days by January 1, 1978, 120 days by July 1, 1978, and 90 days by January 1, 1979, with benefits to be paid to claimants regardless of decision in cases which take longer.

The committee cannot agree that H.R. 5723, as reported by Ways and Means Committee, or even as reported by this committee, will have much, if any, effect on the multiple problems at the Social Security Administration. As noted earlier, a doubling of judges and a 50 percent increase in cases handled has done little to counter an ever increasing number of appealing claimants. The committee suggests that it will take a far greater number of additional hearing examiners to cut down on case backlog than the 175 this bill would keep in place, and that no increase in the number of hearing examiners at the Social Security Administration could counter a factor such as the 3-month delay it takes to get a case to one of them.

The committee believes that its amendment to H.R. 5723 best balances the competing concerns at hand. It preserves the competitive system by which Government employees are hired on the basis of merit. It preserves the integrity of the Administrative Procedure Act. It affords an extraordinary advantage to temporary ALJ's seeking permanent GS-15 ALJ appointments.

SECTION ANALYSIS

The first section of the bill, as amended, amends section 3 of the Act of January 2, 1976, entitled "An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes" (Public Law 94-202; 42 U.S.C. 1383 note) by striking out that portion of section 3 which provides that the appointments of individuals appointed under section 1631(d)(2) of the Social Security Act shall terminate on December 31, 1978. In lieu of the provision which requires these appointments to terminate, the bill, as amended, provides that the appointments shall be on a nontemporary basis. The effect of the amendment made by the first section is to convert these "temporary" positions to permanent ones by repealing the December 31, 1978, termination date. The first section does not affect the pay, classification, or status of individuals serving in these positions. It merely makes these positions permanent.

Section 2 of the bill relates to the classification of these "temporary" positions. Currently these positions are classified at grade GS-14 of the General Schedule. Subsection (a) of section 2 provides that effective at the beginning of the first pay period beginning after the date an individual in a temporary ALJ position meets the minimum qualifications for appointment as an administrative law judge under section 3105 of title 5, United States Code, the grade of the position he holds shall be the minimum grade in effect for any position under section 3105 on October 1, 1977. The minimum grade in effect for any such position on October 1, 1977, was GS-15. The last clause of subsection (a) provides that the position shall continue to be classified at GS-15 only for so long as the individual continues to occupy the position.

Subsection (a) of section 2 in essence provides for noncompetitive conversion from a GS-14 "temporary ALJ" status to a GS-15 "statutory administrative law judge" status, provided that the individual involved meets the minimum qualifications for appointment to a statutory administrative law judge position. An individual who has not met the minimum qualifications would remain at a GS-14 status until he does meet the minimum qualifications.

Subsection (b) of section 2 defines the term "temporary ALJ position" for purposes of section 2, as any position to which the provisions of section 3 of the Act of January 2, 1976, (Public Law 94-202) applies. Individuals occupying "temporary ALJ positions" are the only individuals to whom the provisions of the bill apply, and the committee is advised that as of October 25, 1977, there were 175 of these individuals.

The title of the bill is amended to reflect the changes resulting from the committee amendment.

Cost

The committee has concluded that the enactment of the bill, as amended by the committee, will not result in any additional costs to the Government. Set forth below is the cost estimate provided to the committee by the Congressional Budget Office with respect to H.R. 5723, as amended by the committee.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 21, 1977.

HON. ROBERT N. C. NIX,
*Chairman, Committee on Post Office and Civil Service,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 5723 as amended. The amended bill would make permanent as social security administrative law judges (ALJ's) the temporary SSI hearing examiners and black lung judges provided under Public Law 94-202. It also provides for their grades to be at the GS-15 level upon meeting minimum requirements.

Since it had been the legislative intent of Public Law 94-202 that this conversion take place no later than December 31, 1978 when most, if not all, of the temporary ALJ's will have attained the minimum requirements for conversion to permanent status, the cost of their upgrading should have been budgeted in current and previous years. It is also not determinable at which step of the GS-14 grade these judges currently are.

Based on the examination of the law, the legislative history and the relevant sections of the budget, it appears that there will be no additional cost to the government in making explicit and expedient this permanence and upgrading.

Sincerely,

ALICE M. RIVLIN, *Director.*

OVERSIGHT

Under the rules of the Committee on Post Office and Civil Service, the Subcommittee on Employee Ethics and Utilization is vested with legislative and oversight jurisdiction over the subject matter of this legislation. As a result of hearings conducted on this legislation the subcommittee concluded that there was ample justification for amending the law in the manner provided under H.R. 5723, as amended. The committee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the committee has concluded that the enactment of H.R. 5723, as amended, will have no inflationary impact on the national economy.

AGENCY VIEWS

Set forth below are the views of the Civil Service Commission with respect to H.R. 5723, as amended by the committee.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., October 25, 1977.

HON. ROBERT N. C. NIX,
Chairman, Committee on Post Office and Civil Service, U.S. House of
Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the request for an expression of the views of the Commission on the action of the Post Office and Civil Service Committee concerning H.R. 5723, a bill that deals with the tenure and classification of certain temporary employees in the Social Security Administration.

H.R. 5723 proposed the conversion or grandfathering of these temporary employees to permanent status and tenure as Administrative Law Judges in the Social Security Administration and the reclassification of their positions to GS-15. After considering this bill on October 12, 1977, the Post Office and Civil Service Committee approved a bill which would continue these employees in their positions at their current grade level beyond December 31, 1978. The committee also provided that when these temporary employees meet the minimum qualifications for appointment under the Administrative Procedure Act, their grade level shall be the minimum grade in effect on October 1, 1977, for any position filled under 5 U.S.C. 3105 (GS-15).

The Commission wishes to express its strong approval of the action of the Post Office and Civil Service Committee. H.R. 5723 as originally drafted and introduced was opposed by the Commission because it by-passed competitive merit principles and thereby eroded public confidence in the integrity of the administrative law system. It extended preferential treatment to a small group of employees and undermined the thorough screening process for determining the eligibility of individuals to fill important, quasi-judicial positions.

The action of the Post Office and Civil Service Committee is fully supportive of the concept of merit and competition among candidates and it recognizes the need that applicants for appointment under the Administrative Procedure Act demonstrate their capacity to fill quasi-judicial positions which provide a unique status and a degree of independence in certain actions which is not afforded to other employees in the executive departments and regulatory agencies.

Since the action of the committee maintains the integrity of the merit processes for determining eligibility for judicial type positions, the Commission expresses its strong approval of the committee's bill.

The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ALAN K. CAMPBELL, *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 3 OF THE ACT OF JANUARY 2, 1976

To amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles, and for other purposes.

* * * * *

SEC. 3. The persons appointed under section 1631(d)(2) of the Social Security Act (as in effect prior to the enactment of this Act) to serve as hearing examiners in hearings under section 1631(c) of such Act may conduct hearings under titles II, XVI, and XVIII of the Social Security Act if the Secretary of Health, Education, and Welfare finds it will promote the achievement of the objectives of such titles, notwithstanding the fact that their appointments were made without meeting the requirements for hearing examiners appointed under section 3105 of title 5, United States Code; **but** *and* their appointments shall **terminate not later than at the close of the period ending December 31, 1978, and during that period** *be on a nontemporary basis, and they shall be deemed to be hearing examiners appointed under such section 3105 and subject as such to subchapter II of chapter 5 of title 5, United States Code, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105.*

MINORITY VIEWS

The Carter Civil Service Commission, as with the weather in Washington, is a constantly changing phenomenon. One day it has one position, the next day it has another. This is clearly demonstrated in regard to H.R. 5723.

Throughout most of this Congress, the administration, in opposing this bill invoked the integrity of the merit system against any automatic, legislative elevation of temporary Administrative Law Judges to any higher job grade in disregard of traditional civil service merit procedures. In a letter dated August 30, 1977, that opposition was reiterated, and still existed when this bill was ordered reported by the committee majority on October 12, 1977. Since that time, at least at this writing, the Carter Civil Service Commission's opposition to the bill seems to have vanished, and it now strongly supports enactment.

To illustrate the "retreat syndrome" which seems to characterize the Carter Civil Service Commission, it might be helpful to the members to document the sequence of events leading up to this latest of capitulations.

On May 3, 1977, the Civil Service Commission expressed vigorous objections to H.R. 5723 at an Employee Ethics and Utilization Subcommittee hearing. A Civil Service Commission spokesman testified, the bill simply "extends preferential treatment to a small group of employees" (150). These employees were given temporary Administrative Law Judge status for 3 years beginning in January of 1976 in order to help reduce the backlog of disability cases arising under title II of the Social Security Act. H.R. 5723 was called unwise because it promoted all of the temporary ALJ's regardless of eligibility, performance, or even of desire for permanent status, into permanent employees at the GS-15 grade level (\$36,171 to \$47,025.)

Later in that month, May 27, 1977, the same Commission spokesman wrote Ethics Subcommittee Chairwoman Patricia Schroeder that H.R. 5723 extended special privileges to one class of employees "to the detriment of thousands of others who have participated in this program over the years," and offered an administrative compromise with regard to the approximately 150 temporary Administrative Law Judges whose employment would, under existing law, terminate on the last day of 1978. Under this arrangement, the Commission would "commit itself to process the applications of all of the (temporary) employees who choose to apply on or before September 31, 1977." This would allow temporary employees who did not meet the qualifications for full time employment a full year in which to seek other employment. It would at the same time allow Congress to consider whatever remedies it feels appropriate.

This, we feel, is generous treatment of employees who accepted their positions under the explicitly temporary status specified in Public Law 94-202. It is also consistent with merit principles and fair to the

taxpayers required to pay for the raises which are earned by Federal employees presumably through merit system procedures. Finally, it would not discriminate against individuals already qualified to be on civil service registers in line for these very important Administrative Law Judge positions.

The Carter Civil Service Commission reiterated its administrative solution in a letter to Ways and Means Committee Chairman Al Ullman dated August 30, 1977. The Commission agreed to give seven additional points to the temporary ALJ's who would be considered for permanent positions. This request had been made by the Social Security Administration and made the administrative alternative to H.R. 5723 an even more practical and reasonable matter. Again, Chairman Alan Campbell, of the Civil Service Commission, reiterated the Commission's "strong opposition to a measure which would bypass the competitive merit system in filling these positions."

We agree. However, just two months later, in a letter to the Chairman dated October 25, 1977, Chairman Campbell did a complete flip flop.

That letter stated that the integrity of the merit system had been saved by the Committee's acceptance, on October 12, 1977, of a substitute bill introduced by Mrs. Schroeder. This new bill was supposed to remedy the defects of H.R. 5723 as introduced and accepted by the Ways and Means Committee on September 22, 1977, but it still grants automatic permanent status to temporary ALJ's employed in the Social Security Administration. The only difference is that the Post Office and Civil Service Committee's version brings the ALJ's in permanently at the GS-14 rather than at the GS-15 level permitted in the Ways and Means version. The substitute version also requires them to be placed at the GS-15 grade level, without competition, once they meet the minimum qualifications. The temporary employees, whatever their qualifications or experience, still have an unfair advantage over persons clearly qualified and listed on the register for these important positions. In other words, the same objections raised by the Carter Civil Service Commission to the Ways and Means Committee bill must necessarily apply to the Post Office and Civil Service Committee's substitute.

Public Law 94-202 provided for the hiring of temporary employees, and the Civil Service Commission suggested very adequate administrative credit for temporary employees toward permanent employment. Because H.R. 5723 ignores and interferes with this logical sequence of legislative and administrative action, and because the Carter Civil Service Commission does not seem to be able to make up its mind on the issue, we must concur with the more lengthy and documented views of the Commission and oppose enactment of this bill.

We believe the objections to this legislation are as valid today as they were throughout the year prior to October 25.

EDWARD J. DERWINSKI.
 JAMES M. COLLINS.
 TRENT LOTT.
 JOHN H. ROUSSELOT.
 GENE TAYLOR.

DISSENTING VIEWS OF HON. BENJAMIN A. GILMAN,
HON. TOM CORCORAN, AND HON. JIM LEACH

H.R. 5723, as introduced and as reported by the Committee on Ways and Means unanimously on September 15, proposes to convert, by statute, without restriction, temporary Administrative Law Judges (ALJ's) (GS-14) at the Social Security Administration/Bureau of Hearings and Appeals (SSA/BHA), Department of Health, Education, and Welfare to permanent ALJ's (GS-15). H.R. 5723 amended, as reported by the Committee on Post Office and Civil Service, will convert temporary ALJ's (GS-14) instead to permanent ALJ's (GS-14). It further authorizes those ALJ's to be converted to GS-15 immediately upon meeting the eligibility requirements for GS-15 ALJ positions, and without being certified to the Civil Service Commission ALJ register.

H.R. 5723 was introduced by Congressman Burke, Chairman of the Subcommittee on Social Security, Committee on Ways and Means, with 70 cosponsors, to effectuate the intent of Public Law 94-202. This was to provide more ALJ's at SSA/BHA so as to speed up the social security hearing process inasmuch as claimants were having to wait long periods of time for hearings on their cases. By contrast, H.R. 5723 amended will force the departure of many temporary ALJ's, exacerbating the already critical situation at SSA/BHA, and make impossible the timely disposition of social security cases.

The Majority in amending H.R. 5723 has decided not to recognize the splendid efforts of the temporary ALJ's at SSA/BHA in reducing the backlog of cases from 113,000 hearings pending in April, 1975, to about 83,000 hearings which were pending at the end of March of this year at a most admirable production rate of 27 cases per month, nor reward them with tenure and regular ALJ status for their productivity. They have chosen instead to literally slap these individuals in the face by relegating this corps of dedicated judges to permanent second-class status, at a lesser grade and pay, even though these judges are acting on approximately 95 percent of the same type of cases that their regular ALJ counterparts decide.

Despite the excellent output of the entire social security corps, hearing receipts continue to exceed production every month. The heavy backlog of cases has increased from 83,000 hearings pending in March 1977, to over 90,000 hearings pending in the last couple of months.

The inordinate delays in the disposition of Social Security disability benefit claims as a consequence of this mounting backlog was the issue in a class action suit brought by claimants seeking declaratory and injunctive relief and a writ of mandamus to compel more prompt adjudication of Social Security claims, involving old age and survivors insurance benefits, at the various administrative appeals levels. In granting plaintiff's motion for Summary Judgment on June 14 of this year, the U.S. District Court, Northern District of Illinois, ruled that

the delays in processing requests for hearing and appeals by claimants denying them benefits under provisions of the Social Security Act, were unconscionable, and violated both the Social Security Act and the Administrative Procedures Act. Judge Kirkland then proceeded to order SSA/BHA to reduce the maximum delay between the filing of a petition for a hearing before an administrative law judge and the issuance of a final decision by the Appeals Council to 180 days by January 1, 1978; 120 days by July 1, 1978; and 90 days by January 1, 1979.

SSA/BHA is also faced with pending black lung legislation that will involve the readjudication of 170,000 denials, as well as the uninviting prospect of roughly 6 million more Federal, State, and local employees coming under the wings of the Social Security system by 1982. In both instances, expanded coverage will result in additional cases, mounting backlogs, and the need to maintain a full complement of seasoned ALJ's operating at peak efficiency.

Unwilling to come to grips with the monumental problems faced by SSA/BHA, the majority has instead settled on the status quo by siding with the Civil Service Commission. And what has the Commission accomplished for SSA/BHA? Nothing but a situation where morale is nonexistent, concentration is hampered by continuing worries over grade and pay and a feeling that good performance will not help them get a better rating, and where judges are departing in increasing numbers as they quit, rather than attempt to unsuccessfully meet, time after time, overly restrictive standards prescribed for them by an obviously biased Office of Administrative Law Judge at the Civil Service Commission.

We charge the majority with nonfeasance if the result of H.R. 5723 amended causes the loss of trained and operational personnel from SSA/BHA at a time when there is every indication that many more administrative law judges are urgently required at SSA/BHA. For the majority must be mindful of the fact that the replacement process is costly, both in terms of manhours spent away from more urgent concerns at SSA/BHA, and in the many months of productivity lost while a candidate is selected from the ALJ register and trained to a level of operational efficiency.

H.R. 5723, on the other hand, is neither costly nor wasteful. Cost estimates reported by this committee notwithstanding, this legislation will not result in any new budget authority or increased tax expenditures. We are including at this point a letter from Alice M. Rivlin, Director of the Congressional Budget Office, advising Chairman Ullman, Committee on Ways and Means, that no additional cost to the government would be incurred as a result of the enactment of H.R. 5723.

[Letter follows:]

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., September 15, 1977.

HON. AL ULLMAN,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 5723. This bill would implement provisions of Public Law

94-202 which provides for the conversion of temporary SSI hearing examiner and black lung judges to permanent social security administrative law judges. Since it was the intent of Public Law 94-202 (January 1976) that this conversion take place by now any additional salary costs would have already been taken account of in the budget.

Based on this review, it appears that no additional cost to the government would be incurred as a result of the enactment of this bill.

Sincerely,

Alice M. Rivlin, *Director.*

We also feel that it is most unfortunate that the majority chose to ignore the wisdom of Congressman Burke, who as Chairman of the Subcommittee on Social Security, has devoted many years to the study of the problems of the social security system. Mr. Burke, in his appearance before the Subcommittee on Employee Ethics and Utilization, testified most forcefully and eloquently about the need for H.R. 5723 because of the Civil Service Commission's flagrant disregard for the legislative intent of Public Law 94-202, clearly expressed in the report of the Ways and Means Committee and the Senate Finance Committee, that the temporary ALJ's created by this legislation would be expeditiously converted to regular ALJ status with "great weight" being given in the rating system to their extensive experience adjudicating the social security definition of disability.

Mr. Burke stressed to the subcommittee that, to date, the Civil Service Commission has not assigned any additional points in the rating system for SSI adjudicatory experience. He also produced statistics revealing an almost 50 percent turndown rate of temporary ALJ's with only 14 ALJ's appointed and 22 qualified for the GS-15 register out of a total universe of 169 applicants. This is 21 months after the passage of Public Law 94-202, and less than 15 months remain before these individuals' appointments expire.

A letter from Congressman Burke to Chairman Nix, to be included at this point, requesting the committee's support for H.R. 5723, underscores these points:

[Letter follows.]

SUBCOMMITTEE ON SOCIAL SECURITY,
COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., September 29, 1977.

Hon. ROBERT N. C. NIX,
Chairman, Committee on Post Office and Civil Service,
Washington, D.C.

DEAR BOB: I was greatly distressed with the action taken on September 27, 1977 by your Subcommittee on Ethics and Employee Utilization on H.R. 5723 which I had introduced with some 69 co-sponsors. H.R. 5723, which was jointly referred to our two Committees, was approved unanimously by the Subcommittee on Social Security and by the full Ways and Means Committee (H. Rept. 95-617, copy attached). It was our hope to get this measure through Congress on suspension before the end of the session but the amendment approved by the Subcommittee on Ethics and Employee Utilization on a three to two vote will make this immeasurably more difficult if this action is sustained by the full Committee on Post Office and Civil Service.

H.R. 5723 would have converted to regular ALJ status some 180 temporary Social Security ALJ's who have been doing basically the same work as regular ALJ's for about 3 years. It was our intention when we passed Public Law 94-202 that this group be expeditiously converted before their temporary appointment expired at the end of 1978. What Ethics and Employee Utilization has done is to make them permanent second-class ALJ's at GS-14 while they continue to try to qualify as regular ALJ's through the Civil Service Commission procedures. There is a rather monumental "Catch-22" in this approach in that the fact that these ALJ's are GS-14's is the primary reason that so few of them have been awarded sufficient points to get on the Civil Service register. The Ways and Means Committee and the Finance Committee statement that "great weight" should be given to Social Security experience has been totally ignored by the Civil Service Commission. This action has meant that many of these ALJ's who are doing high quality work have been denied positions for which they have demonstrated proficiency.

I am sure you realize from your own casework that we have a tremendous backlog of Social Security hearings. If we lose any substantial number of these temporary ALJ's we would greatly exacerbate a very serious situation. These ALJ's have been fighting for equal treatment for 3 years and up to now they have been completely frustrated by the Civil Service Commission. They have been sorely tested by a bureaucracy which has consistently ignored Congressional intent. The staff of our Subcommittee has conducted an in-depth study of Civil Service Commission's ALJ's selection procedures, the results of which are contained in the Committee print—Background Material on H.R. 5723: Conversion of Temporary Social Security ALJ's (attached herewith). This material rather dramatically illustrates the continuing inability of the Civil Service Commission to deal with this situation and the necessity for the passage of H.R. 5723 as introduced.

Although we all wish to preserve the "merit" system, its name should not be invoked as a shield to protect continued unfairness to these ALJ's. In the last three years, the Civil Service Commission has played a major role in the diminution of the appeal rights of Social Security beneficiaries. Bob, I don't think this situation should be allowed to continue.

With all good wishes, I remain,
Sincerely,

JAMES A. BURKE, *Chairman.*

This incredible turndown rate by the Civil Service Commission flies in the face of facts that show that the original HEW appointment procedures established in 1974 for the temporary ALJ's were almost identical to the current Civil Service Commission's APA rating system; that temporary ALJ's are not only hearing the same identical type of cases as regular ALJ's, but in many instances outperforming their counterparts; and the contention by the Director of SSA/BHA that his temporary judges are doing a very creditable job under the most trying of circumstances, a fact borne out by a recently concluded study by the Center for Administrative Justice.

It has also been argued that H.R. 5723 would set an unfortunate precedent because it bypasses the merit system. In response, we say that H.R. 5723 is *svi generis*, and is, in fact, remedial in application. There have been only two other instances of noncompetitive appointments of ALJ's. The first occurred in 1948, almost 30 years ago, when the Civil Service Commission itself approved the noncompetitive appointments of 190 ALJ's pursuant to its regulations, and the second in 1959, when some temporary hearing examiners were hired to ameliorate a severe backlog problem. Besides, it is hard for us to imagine that the pattern of events necessitating this legislation could ever recur.

By contrast, H.R. 5723 amended is entirely too ambiguous. While it is claimed by Congresswoman Schroeder, the author of the amendment to this bill, that temporary ALJ's at SSA/BHA will be converted to permanent ALJ's at the same grade and pay, the wording of the amendment "and their appointments shall be on a nontemporary basis," creates a grave doubt in our minds as to just how permanent will be this proposed conversion. We wish also to note that Mrs. Schroeder's amendment would have the "invidious" effect of reclassifying ALJ's without the benefit of competitive exam—precisely the same argument used by the majority to oppose H.R. 5723.

We also find it difficult to swallow the argument that we should support H.R. 5723 amended because we must compromise with the Civil Service Commission to maintain the integrity of the merit system. First, the Commission has blithely disregarded a Congressional directive to give "great weight" to adjudicating experience and to speedily convert temporary ALJ's to regular status. Second, when the Subcommittee on Employee Ethics and Utilization, acting in good faith, attempted to reach an administrative compromise of this issue with the Commission, the Commission refused to give an inch, but instead made meaningless concessions on small points that could in no way resolve the dilemma that necessitated H.R. 5723.

In summary we dissent from the action of the majority because the committee amendment would (1) perpetuate the inequitable rating system employed by the Office of Administrative Law Judge, Civil Service Commission; (2) institutionalize an "unequal pay, for equal work" system at SSA/BHA; (3) destroy the concept of providing "first class" justice for SSI recipients, and presumably, by this amendment, other Social Security beneficiaries as P.L. 94-202 requires, by forcing claimants to have their cases disposed of by allegedly less qualified individuals; and (4) create a severe manpower shortage at SSA/BHA that will frustrate this Bureau's efforts to meet court imposed deadlines for deciding Social Security claims.

BENJAMIN A. GILMAN,
TOM CORCORAN.
JIM LEACH.

LISTING OF REFERENCE MATERIALS

U.S. Congress. Senate. Finance Committee Print: *Report of the Panel on Social Security Financing. . . Pursuant to S. Res. 350, 93rd Congress*. 94th Congress, 1st session.

U.S. Congress. House. Committee on Ways and Means. Subcommittee on Social Security. *Hearings on Financing the Social Security System*. May 7, 14, 15, 20, 21; June 17, 18, and 19, 1975. 94th Congress, 1st session.

U.S. Congress. House. Committee on Ways & Means. Subcommittee on Social Security. *Hearings on H.R. 14430 (Decoupling the Social Security Benefit Structure)*. June 18; July 23 and 26, 1976. 94th Congress, 2nd session.

U.S. Congress. Prepared for Use of Senate Committee on Finance and House Committee on Ways and Means. *Report of the Consultant Panel on Social Security to the Congressional Research Service*. August 1976. 94th Congress, 2nd session.

U.S. Congress. House. Committee on Post Office and Civil Service, Subcommittee on Employee Ethics and Utilization. *Hearings on H.R. 2387, H.R. 3685, and H.R. 5723 (Administrative Law Judges)*—May 3, 4 and 5, 1977. 95th Congress, 1st session.

U.S. Congress. Senate. Committee on Finance. Subcommittee on Social Security. *Hearings on Social Security Financing Proposals*. June 13, 16, 23 and 24; July 15, 1977. 95th Congress, 1st session.

U.S. Congress. House. Committee on Ways and Means. Subcommittee on Social Security. *Hearings on President Carter's Social Security Proposals*. May 10; July 18, 19, 20, 21, 22, 26 and 27, 1977. 95th Congress, 1st session.

U.S. Congress. Senate. Committee on Finance. *Staff Data and materials on Social Security Financing*. September 1977. 95th Congress, 1st session.

U.S. Congress. Senate. Committee on Finance. Subcommittee on Taxation and Debt Management Generally. *Hearing on S.690, Jefferson County Mental Health Center, Inc.* 95th Congress, 1st session

