SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

Volumes 1, 2
H.R. 3236
PUBLIC LAW 96-265 — 96th Congress

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Social Security Administration

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REPORTS, BILLS,
DEBATES, AND ACT

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Social Security Administration
Office of Policy
Office of Legislative and Regulatory Policy

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DISABILITY INSURANCE AMENDMENTS OF 1979

REPORT

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

TO ACCOMPANY

H.R. 3236

TO PROVIDE BETTER WORK INCENTIVES AND IMPROVED ACCOUNTABILITY IN THE DISABILITY INSURANCE PROGRAM

APRIL 23, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 96-100

DISABILITY INSURANCE AMENDMENTS OF 1979

Apr. 23, 1979.—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

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

[To accompany H.R. 3236]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, line 14, after "subsection" insert "other than paragraphs (3)(A), (3)(C), and (5)".

Page 3, after line 18, insert the following new paragraph:

> (4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 2(a)(3) of the Disability Insurance Amendments of 1979).".

Page 4, line 10, strike out "or who has died".

Page 4, line 11, insert "or who has died," after "subparagraph),".

Page 4, line 20, strike out "death or".

Page 4, lines 22 and 23, strike out "he dies, attains such age, or" and insert in lieu thereof "he attains such age or".

Page 9, line 15, strike out the comma.

Page 18, line 10, strike out "30 percent" and insert in lieu thereof "15 percent".

Page 18, line 12, strike out "60 percent" and insert in lieu thereof "35 percent".

Page 18, line 14, strike out "80 percent" and insert in lieu thereof "65 percent".

Page 20, after line 8, insert the following new subsection:

(h) The Secretary of Health, Education, and Welfare shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate by January 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the plan for action by such committees, or for submittal by such committees with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws.

Page 20, strike out the sentence beginning on line 18.

I. Summary of Principal Provisions

The bill (H.R. 3236), as amended by your committee, would (a) curb excessive benefits that in some instances may exceed the predisability earnings on which the benefits are based, (b) provide more incentives for disabled people to return to work, (c) improve accountability in the disability insurance program, and (d) make other important changes in the disability program.

LIMITATION ON TOTAL FAMILY BENEFITS

In the case of disabled workers who become entitled to a disability insurance benefit in the future, a limit would be established on the maximum amount of total benefits that may be paid to workers and their dependents. The limit would be 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of primary insurance amount (PIA), whichever is lower (but with a minimum guarantee of 100 percent of the PIA).

VARIABLE DROP-OUT YEARS FOR YOUNGER DISABLED WORKERS

The number of years of low or no earnings that can be dropped in computing a disabled worker's benefits who becomes entitled in the future would vary by the age of the worker, according to the following schedule:

Worker's age:	*Number of dropout years*
Under 27	0
27 through 31	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The provision would also credit 1 dropout year for each year in which the worker provides principal care of a child under age 6. In no case could the number of dropout years exceed 5.

WORK INCENTIVES

To stimulate more disabled beneficiaries to return to work despite their impairments, your committee's bill would:

(*a*) Provide that the same trial work period applicable to disabled workers would be provided to disabled widow(er)s;

(*b*) Deduct extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices and equipment from his earnings for purposes of determining if a disabled person were engaging in substantial gainful activity (SGA);

(*c*) Extend the present 9-month trial work period to 24 months. In the last 15 months of the 24-month period, the individual would not receive benefits if he earned over the SGA amount, but would retain his eligibility for benefits if he finds he must return to the the disability rolls.

(*d*) Extend Medicare coverage for an additional 36 months to disabled beneficiaries who return to substantial gainful work; and

(*e*) Eliminate the second 24-month Medicare waiting period where a person again becomes disabled and entitled to benefits.

DISABILITY DETERMINATIONS AND REVIEW OF STATE AGENCY ALLOWANCES

Authority would be granted to the Secretary to establish, through regulations, procedures and performance standards for the States to follow in the disability determination process. States would be given the option of (1) continuing to administer the program in compliance with these regulations, or (2) turning over administration to the Federal Government.

Also, the Secretary would be required to review State agency determinations before the payment of benefits and must review the following percentages of allowances: at least 15 percent in fiscal year 1980; at least 35 percent in fiscal year 1981; and at least 65 percent in fiscal year 1982 and thereafter.

REHABILITATION EXPENDITURES

Your committee's bill replaces the current Beneficiary Rehabilitation Program with a program of disability trust fund reimbursements for vocational rehabilitations which meet performance standards based on return to the labor market. A State could receive twice the State's share of the cost of rehabilitation services if those services result in the disabled beneficiary engaging in substantial gainful activity or employment in a sheltered workshop for 12 continuous months. Also, monthly benefits would continue to be paid to people who have medically recovered if they are still in an approved vocational rehabilitation program, if the Social Security Administration determines that continuing in such a program will increase the probability of the person going off the benefit rolls permanently.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

Each beneficiary on the rolls, unless a finding has been made that his disability is permanent, would be reviewed at least once every 3 years.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

The social security trust funds would reimburse non-Federal institutions and physicians for medical evidence of record that they submitted to support claims for disability benefits.

DETAILED DECISION NOTICES

Notices to claimants for benefits would provide a brief statement of the pertinent law and regulations, a concise summary of the evidence and reason for the decision.

PAYMENT FOR CERTAIN TRAVEL EXPENSES

The social security trust funds would pay for reasonable costs of travel for claimants to obtain required medical examinations, and for claimants and their witnesses and representatives to reconsideration interviews and hearings. Previously, these amounts have been authorized under annual appropriations acts.

II. Purposes and Scope: General Discussion

A. WORK INCENTIVES

Family Benefit Limit (section 2).—Recent actuarial studies in both the public and private sector have indicated that high replacement rates (the ratio of benefits to previous earnings) have constituted a major disincentive to disabled people in attempting rehabilitation or generally returning to the work force. A recent analysis by the Social Security Administration actuaries has indicated:

> The average replacement ratio of newly entitled disabled workers with median earnings and who have qualifying dependents increased from about 60 percent in 1967 to over 90 percent in 1976, an increase of about 50 percent. During this time the gross recovery rate decreased to only one-half of what it was in 1967. High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial work period provision has been largely negated by the prospect of losing the high benefits. ("Experience of Disabled-Workers Benefits Under OASDI, 1972–76," actuarial study No. 75, June 1978.)

John H. Miller, probably the most knowledgeable disability actuary in the private sector, points to the role of high replacement rates in recent adverse social security disability experience:

> The evidence is clear that liberal disability benefits induce both an increase in the number of cases approved and the prolongation of disability. From a social and humanistic

> point of view, we are presented with a dilemma, namely, how we can provide adequate benefits to those unfortunate individuals who become and remain truly disabled, without removing or greatly reducing the incentive to overcome the disability.

Secretary Califano testified before the Social Security Subcommittee in February of this year:

> Benefits in approximately 6 percent of all cases actually exceed the disabled person's previous net earnings; and approximately 16 percent of beneficiaries receive benefits that are more than 80 percent of their average predisability net earnings.

The primary mechanism in your committee's bill to provide replacement rates which better support incentives to work is the limitation on family benefits. When it is combined with the other work incentive aspects of the bill it is hoped that beneficiary motivation will be more positive towards vocational rehabilitation and return to the labor market.

A number of elements underlie the philosophy of the committee's limitation:

(1) It is designed primarily to strengthen work incentives for disabled beneficiaries.

(2) It is temporary and a transition in the sense that when the social security benefit structure and formula are examined later in this Congress in a comprehensive way, other approaches might be found preferable for the long term, such as a separate disability benefit formula, a revised family maximum for all or individual programs (disability, retirement, survivors), non-wage-related dependents' benefits, or taxing disability benefits.

(3) Although it assumes that a few more families would have to supplement their benefits through AFDC than do families under social security disability at the present time, the proposal is not designed to take "welfare" out of social security.

Section 2 of the committee bill would limit total DI family benefits to an amount equal to the smaller of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary benefit (PIA). The AIME limitation is designed to affect wage earners at lower earnings levels while the 150 percent of PIA limitation will generally affect average and high wage earners. No family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only for entitlements on or after January 1, 1980, based on disabilities that began after calendar year 1978.

In determining a reasonable limit on benefits for disabled-worker families, the committee gave consideration to the experience of private insurers. Private insurers generally limit benefits to no more than two-thirds of predisability gross earnings to avoid providing benefits so high that people are as well of, or better off, financially after they begin receiving the disability payments than when they were working. Your committee decided that the limit under social security should exceed that of private insurers because of it is the primary benefit base for the American worker and often is the only source of income for

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families of workers who have the lowest earnings. Your committee believes that, on balance, 80 percent of AIME would provide a reasonable ceiling on family benefits.

For workers at higher wage levels, social security benefits should replace less than 80 percent of AIME. At higher wage levels, concern for benefit adequacy is less, the likelihood of private supplementation is greater, and the discrepancy between gross earnings (upon which social security benefits are based) and predisability disposable earnings is greater than in the case of the lower paid worker. In recognition of these factors, your committee has adopted a provision which also limits family benefit to 150 percent of the worker's primary insurance amount. This provision will produce family benefits that are less than 80 percent of AIME for the families affected, with the percentage declining to about 50 percent of AIME at the highest earnings levels.

Social security benefits are based on gross earnings, not earnings net of Federal and State taxes and work-related expenses. Because such taxes and expenses vary widely depending on the worker's residence, the size of the worker's family, and the nature of the work, any approximation in terms of gross earnings will have different effects in individual situations. However, calculations using various hypothetical cases suggest that the combination of 80 percent of AIME and 150 percent of PIA, whichever is lower, produces what seems to be a reasonable wage replacement pattern at various earnings levels, a reasonable return for the higher paid worker, and a reasonable relationship between pre- and post-disability disposable income. Any more stringent limitation would necessarily affect many beneficiaries who do not have other major sources of income, and whose benefits may already be relatively low.

The limit on benefits would affect only 30 percent of newly entitled disabled workers. Seventy percent of people coming on the rolls do not have eligible dependents and, thus, would not be affected by a cap on family benefits. It is estimated that 123,000 disabled-worker families would be affected by the cap in the first year.

A number of other interrelated provisions in the Committee bill are designed to eliminate work disincentives.

Reduced Dropout Years (section 3).—To reduce the disparity in disability benefits between young and older disabled workers, section 3 of the bill would vary the number of dropout years by age for disability entitlements after 1979. Workers of all ages are allowed to exclude 5 years of low earnings in the averaging period for benefit purposes. For a worker age 50 or over this exclusion reprresents only 18 percent of his or her earnings history (5 years out of 28). It represents, however, a 71 percent exclusion for a 29-year-old (5 years out of 7). Under your committee bill, there would be no dropout years allowed for workers under age 27 and the number of dropped years would gradually rise to 5 dropout years (as under existing law) for workers age 47 and over. However, if a worker provided principal care for a child under age 6 for more than 6 months in any calendar year that was a year of low earnings, that year could also be dropped up to a combined total of 5 dropout years. This latter provision would not be effective until January, 1981. During the year before this provision is due to take effect, the Social Security Administration should

study the administrative feasibility of the provision and make a report to the Committee on Ways and Means on how the provision would be implemented, with recommendations for any necessary changes in the statute. This report should be submitted no later than January 1, 1980.

Substantial Gainful Activity (SGA) (sections 4 and 5).—A number of witnesses testifying before the Subcommittee on Social Security recommended substantial increases in the amount of monthly earnings which determines the ability to engage in substantial gainful activity. SGA is an integral part of the definition of disability which governs not only whether an individual is terminated from the rolls because he has demonstrated the ability to return to work, but also determines the basic eligibility for severely impaired persons who are not on the rolls but are working to a substantial degree. The result of any major change in the concept of SGA is not verifiable by any substantial body of knowledge. Thus, authority to waive benefit requirements of title II and title XVIII would be authorized under section 4 so that demonstration projects could be carried out to ascertain alternative methods of treating work activity to stimulate a return to gainful employment by disability beneficiaries. It is not the intent of your committee that participants in such projects would be disadvantaged in contrast to existing law. Research findings in this area are urgently needed for enlightened policy determinations in dealing with SGA and related problems.

To further stimulate work efforts for severely disabled individuals, section 5 of your committee's bill would permit deduction of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary control an impairment) from a disabled beneficiary's earnings for purposes of determining if he engaged in substantial gainful activity. Examples of drugs and services necessary to control an impairment would be the anti-convulsant drugs and services to control epilepsy, anti-convulsant blood level monitoring, EEG and brain scan, etc. This provision would reduce the disincentive to work of many disabled beneficiaries who are motivated to work but have high impairment-related work and other expenses.

Trial Work and Medicare Extension (sections 6 and 7).—The provisions on trial work and the amendments to medicare which complement them were included in the subcommittee's bill of last session and adopted by the administration in its recommendation this session. Moreover, the Advisory Council on Social Security which will report in the fall has fully supported the trial work amendments in its tentative recommendations submitted to the subcommittee and full committee for consideration in the disability insurance legislation.

Section 6 of your committee bill in effect extends the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period, the individual would not receive cash benefits unless he finds he must return to the disability rolls.

Your committee thinks the present 9-month trial work period is insufficient as an incentive for disabled people to return to work, and wants this situation corrected. This change would preclude people who work for some time and then, because of their impairment, must stop work, from having to refile an application and having to go through

the lengthy disability determination process again. This change would not only help the disabled claimants but it would also reduce the Social Security Administration's workload.

Section 6 of the bill also provides that the same trial work period will be applicable to disabled widow(er)s. One purpose of the trial work period is to provide the opportunity for a disabled person to test his/her ability to work. It would be desirable to provide disabled widow(er)s with the same incentives to return to work as are provided to other disabled beneficiaries.

Section 6 of the bill also extends medicare coverage for an additional 36 months over existing law to disabled beneficiaries who, though not medically recovered, have returned to substantial gainful work. Under present law, people who may be able to work despite their impairment often do not try to work because of the fear of losing their monthly cash benefits and medicare coverage. They are particularly concerned they will be unable to get any public or private medical care coverage. Thus, this provision removes the potential loss of medicare coverage as a deterrent to work effort for this substantial period.

Section 7 of the bill eliminates the requirement that a person who becomes disabled again must serve another 24-month waiting period before medicare coverage is available to him. This amendment would apply to workers becoming disabled again within 60 months, and to disabled widow(er)s and adults disabled since childhood becoming disabled again within 84 months. This would remove the present-law requirement that frequently discourages a disabled beneficiary from returning to productive employment. Also, where a disabled person was initially on the cash benefit rolls but not for 24 months and did not receive medicare coverage, the time spent in cash benefit status would count for purposes of receiving medicare coverage if a subsequent disability occurred within a certain period of time.

B. PROGRAM ACCOUNTABILITY AND UNIFORMITY OF ADMINISTRATION (SECTIONS 8 AND 17)

In the last several years, GAO and others have criticized the lack of uniformity and the quality of disability decisions made by the various State agencies. It must be recognized that, while the Federal-State determination system generally works reasonably well (many State agencies do an excellent job), significant improvements in Federal management and control over State performance are necessary to ensure uniform treatment of all claimants and to improve the quality of decisionmaking under the Nation's largest Federal disability program.

Your committee's bill, therefore, is intended to strengthen the Federal role in the Federal-State system by increasing direct Federal management control over how disability determinations are made in the State agencies and by requiring increased Federal review of State determinations. It should also be emphasized that program accountability is not solely a problem of State administration and that it is equally important that accountability be maintained in Federal administration of the disability insurance program. It is the hope of your committee that such accountability has not been impaired by

the recent "functional" reorganizations of the Social Security Administration.

In order to strengthen Federal management of the system, section 8 of the bill would eliminate the current system of negotiated agreements between the Federal Government and the States, which give the Secretary of Health, Education, and Welfare only general authority over the program, and which leave great discretion to the States as to how the disability determination process is to be carried out. The bill would give the Secretary the authority to establish through regulations the procedures and performance standards for the State disability determination programs. The regulations might specify, for example, administrative structure, the physical location of and relationship among agency staff units, performance criteria, fiscal control procedures, and other rules applicable to State agencies and designed to assure equity and uniformity in State agency disability determinations.

States would have the option of administering the program in compliance with these standards or turning over administration to the Federal Government. States that decide to administer the program must comply with standards set by the Secretary subject to termination by the Secretary if the State substantially fails to comply with the regulations and written guidelines. Your committee believes that this new Federal administrative authority will both improve the quality of determinations and ensure that claimants throughout the Nation will be judged under the same uniform standards and procedures, while preserving the basic Federal-State structure.

If a State elects not to continue administration or the Secretary terminates a State's administration because of substantial failure to comply with regulations, it is essential that there be adequate procedures to establish Federal administration. Two issues are of particular concern: the position of the State employees involved, and the potential disruption of the ongoing determination process which could create hardships for disability applicants.

Under your committee's bill there is more likelihood that some States may decide not to participate under the program or that the Secretary may determine that a State is not complying with the regulatory requirements promulgated under this legislation. Although your committee does not expect any widespread departure from traditional State administration of the disability determination process, it is prudent to anticipate that this may happen in a few jurisdictions. Even though under existing law States have the power to terminate agreements (in fact, the State of Wisconsin filed and then withdrew a termination notice last year), the Department of HEW appears not to have done any extensive planning for Federal administration of State agencies.

Thus, to stimulate Department planning as to such a contingency and to inform the Congress as to what problems would be presented and possible means of alleviating them, your committee's bill would require the Secretary to submit to the Congress, no later than January 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit should it become necessary. The bill further states that such a plan should assume the uninterrupted operation of the disability determination proc-

ess, including the utilization of the best qualified personnel to carry out this function.

Your Committee also recommends that the Department of HEW give consideration to establishing conditions of employment so that the most qualified State employees would not be substantially disadvantaged in transferring to Federal employment. The bill states, in this regard, that recommendations for any amendments of Federal law or regulations required to carry out the plan should be submitted with the plan to the House Ways and Means and the Senate Finance Committees who may then submit them with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws (the House Post Office and Civil Service Committee, and the Senate Committee on Governmental Affairs).

As to the Federal review of the State agency decisions, your committee is concerned that within the past decade the Social Security Administration moved from what had been a preadjudicative review of the majority of State agency decisions to a sample postadjudicative review involving only 5 percent of such cases. Your committee is aware that varied elements contributed to the Social Security Administration's decision to make these administrative changes. Among these were the demands of the 1972 black lung amendments and a reduction in positions for budget purposes.

Your committee's bill returns to substantially the situation existing prior to 1972 as to the review of allowances. The requirement in section 8 of the bill for increased Federal review on a preadjudicative basis is phased-in over a 3-year period, beginning in 1980, so that there can be an orderly increase in trained staff necessary to carry out this purpose. This review is set at 15 percent in fiscal year 1980, 35 percent in 1981, and 65 percent in 1982 and thereafter. Your committee recognizes, however, that in some instances reviewing this percentage of cases may not be cost-effective—a lower or higher percentage may be prudent. If the Secretary finds this to be the case, we would expect him to report his findings to your committee in an expeditious manner.

Your committee is also concerned by the lack of followup on the medical condition and the possible work activity of individuals who have been on the rolls for years. Section 17 of the bill provides, therefore, that unless the adjudicator in the State agency makes a finding that the individual is under a disability which is permanent, there will be a review of the status of disabled beneficiaries at least once every 3 years. Your committee's bill emphasizes that all existing reviews of eligibility under the law are to be continued and expanded where necessary.

Your committee understands that the Social Security Administration already schedules a review in about 20 percent of new disability cases (where there is a reasonable expectation that a disabled beneficiary will show medical improvement). In order to give SSA enough time to hire and train additional staff to conduct the reviews required by this section, your committee believes that the provision should apply to all new determinations of disability after the date of enactment and that reviews and scheduling of necessary medical examinations for all current disability cases be completed no later than 3 years after the date of enactment.

If periodic review at least every 3 years proves not to be cost-effective, the Secretary should report this to the committee.

C. REHABILITATION EXPENDITURES AND PROGRAM EFFECTIVENESS (SECTIONS 13 AND 14)

In recent years the cost effectiveness of the provisions which authorize vocational rehabilitation (VR) expenditures out of the disability trust fund have been questioned. Under existing law, an amount equal to 1.5 percent of disability insurance expenditures is potentially available for vocational rehabilitation expenditures. This is called the beneficiary rehabilitation program (BRP).

In June of 1974, the Department reported a savings of $2.50 for every $1 spent. However, in 1976 the GAO reported that previous estimates of benefit savings because of rehabilitation services were not being realized. The GAO study states that the best estimate for a benefit-cost ratio is 1.15. That is, for every $1 of rehabilitation expenditure, $1.15 in trust fund savings is realized. A recent Rutgers University study also arrived at a figure of similar magnitude. The GAO suggested that the administration should freeze funding of the program. This has been done for the last couple of years, although some increase in funding has been made available for increases in the cost of living.

The committee bill contains a provision aimed at providing a more permanent solution to the problem. In terms of simplification and better administration, section 13 of the bill would consolidate the VR funding sources for the seriously disabled in the regular VR program. Your committee realizes that administrative changes will be needed to accommodate this provision. Such changes might include extended tracking of rehabilitated beneficiaries to assess eligibility for reimbursement and the establishment of an appeals procedure to resolve reimbursement disputes. The approach in the committee bill also seems appropriate inasmuch as the Congress, following recommendations of the VR administrators, may place the regular VR program in a new Department of Education.

Section 13 of the bill also replaces the BRP with bonus Federal maching of State regular VR expenditures for those individuals where rehabilitation results in employment at substantial gainful activity (SGA) earning levels for a continuous 12-month period. Such reimbursement would cover costs of services in individual cases, administrative expenses, and counseling and placement costs. The 12-month employment period may begin while the beneficiary is receiving services under a State vocational rehabilitation program and such 12-month period may also coincide with the trial work period. The Congress encourages the advance of trust funds under this provision in such a way as to facilitate financial planning by the Federal and State agencies administering the program.

It is the intent of the committee that funds paid to the States under this provision be utilized by State VR agencies for the rehabilitation of additional SSDI beneficiaries reimbursable under this provision. Under the committee bill, the effective date is fiscal year 1981 to provide for an orderly transition and for adjustment of the authorization of appropriation for the regular VR program which is within the jurisdiction of the Education and Labor Committee. This is very important if the level of support for VR services to SSDI beneficiaries is to be maintained.

The committee bill recognizes that some persons on the disability rolls will only be able to work in sheltered workshop situations at a wage rate below the SGA level. Under this bill there would also be bonus matching for the rehabilitation expenses, but it would be subject to a requirement that they receive wages for the 12-month period after the "rehabilitation" phase of their sheltered workshop experience has been concluded.

Section 14 of the committee bill also provides that no beneficiary be terminated due to medical recovery if the beneficiary is participating in an approved VR program which the Social Security Administration determines will increase the likelihood that the beneficiary may be permanently removed from the disability rolls.

D. CLAIMS AND APPEALS PROCEDURES

The committee bill provides a number of provisions which make the disability adjudication and appeals process more effective and equitable:

Decision Notices.—Section 9, although phrased broadly so as to apply decisions under all title II programs, is designed primarily to improve the social security disability denial notice. Complaints about the denial notices have been voiced for a long time. In fact, the Harrison subcommittee stated in its 1960 report that "the so-called 'denial letter' sent to every disallowed applicant, is merely a form letter which is not individualized to any degree with respect to the particulars of the given case, and gives little, if any, of the reasons for the denial contained in the written determinations of the State agency (p. 28)." Little appears to have changed over the years other than that the denial notice is now generated by a computer.

Your committee believes that the decision notice should contain a clear explanation of the decision, a brief summary of the evidence on which the decision is based, and a brief statement of the law and regulations, if appropriate. This will add a number of positive factors to the adjudication process. The State agency decision will be on a sounder base because the examiner will be required to formulate the reasons for his decision in written form and the claimant may be less likely to appeal the decision if he understands how the law relates to his particular case. This provision will require additional staff resources and may increase processing time at the State agency level.

It is not the intent of your committee that the denial notification be a voluminous document (no more than 2 pages should usually suffice) or, in the case of allowances, that the decision be as detailed as denials. The statement of the case should not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant should be informed of its existence, and it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.

Nondisclosure is to be used sparingly and should not be used in a way which denies to claimants the ability to know the reason for this decision. Full disclosure should be made to an appropriate representative.

Medical Evidence.—Section 15 of the bill would authorize the Secretary to pay all non-Federal providers for costs of supplying medical evidence of record in social security disability claims as is done for SSI disability claims.

Travel Expenses.—Section 16 of the bill would place in permanent law authority for payment of claimant's travel expenses resulting from participation in various phases of the adjudication process.

Court Remands.—Section 11 remedies two chronic problems in the provisions in the law which authorize the remand of court cases back to the administrative process. First, your committee's bill would limit the absolute authority of the Secretary of Health, Education, and Welfare to remand cases back to the appeals council before answer. The Harrison subcommittee suggested in its report that such absolute discretion gave the Secretary the ability to remand cases back so that they could be strengthened to sustain court scrutiny. Other critics, including the Center for Administrative Justice in its 1977 report, believed that the current provision might lead to laxity in appeals council review in that they may get another look at the case if it was appealed to the district court. Your committee's bill would require that such remands would be discretionary with the court upon a showing by the Secretary of good cause.

The second provision relates to remands by the courts. Under existing law the court itself, usually on motion of the claimant, has discretionary authority "for good cause" to remand the cases back to the appeals council and ultimately the administrative law judge. Statistics show that of the 3,205 social security cases disposed of in fiscal 1977, there were 1,257 reversals—about 40 percent. However, only 249 of these cases were reversed directly by the court while 1,008 were reversed after being remanded to the appeals council. Undoubtedly many of these court remands are justified because of the insufficiencies of the prior proceedings. However, it appears that some of the remands are made because the judge disagrees with the outcome of the case which he might have to sustain under the "substantial evidence rule".

Your committee's amendment would require that a remand would be authorized only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding. The Center for Administrative Justice in its report pointed out that such a provision is contained "in nearly all comparable review statutes". This language is not to be construed as a limitation of judicial remands currently recognized under the law in cases which the Secretary has failed to provide a full and fair hearing, to make explicit findings, or to have correctly apply the law and regulations.

Closed Record.—Section 10 would limit the prospective effect of applications (the so-called floating application) and allow for a more orderly administrative process and closing of the record. Present law provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. One consequence of this provision is that the claimant is afforded a continuing opportunity to establish eligibility until all levels of administrative review have been exhausted, i.e., until there is a

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final decision. Thus, a claimant can continue to introduce new evidence at each step of the appeals process. even if it refers to the worsening of a condition or to a new condition that did not exist at the time of the initial application.

The amendment made by this section would allow the issuance of regulations to foreclose the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative ALJ hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect.

Time Limits.—Section 12 of the bill also requires the Secretary of HEW to submit a report to Congress no later than January 1, 1980, recommending appropriate time limits for the various levels of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

The bill requires the Secretary in recommending the limits to give adequate consideration to both speed and quality of adjudication. This would force the administration in program and budget planning to take a harder look at these sometimes conflicting objectives. Congress could then evaluate the recommendations for consistency with the elements it wishes to emphasize and take further action next year.

III. Actuarial Costs and Savings Estimates Under the Bill

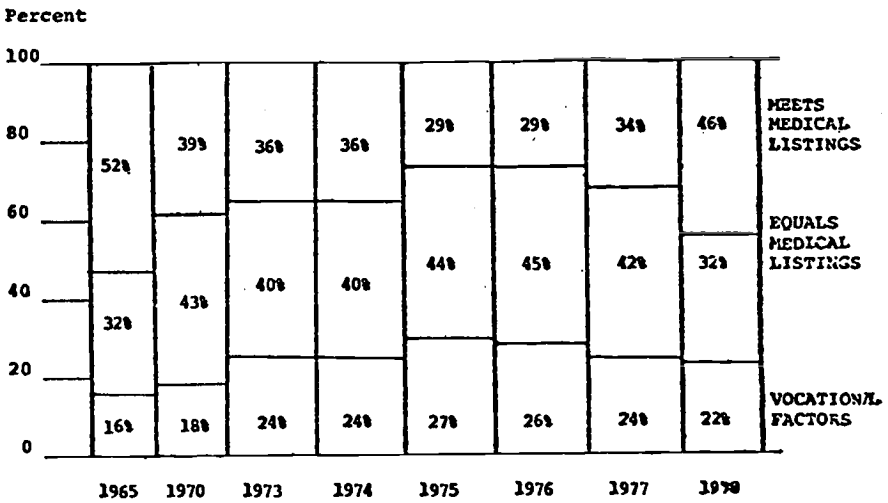
Short Term.—The status of the Disability Insurance Trust Fund has greatly improved since the 1977 amendments. Before these amendments it was estimated that the fund would be exhausted by early 1979. The Social Security Amendments of 1977 allocated additional funds to assure its solvency well into the 21st century. The latest trustee's report (1979), which has just been released, shows that by the end of fiscal 1979 the disability trust fund will total over $5.5 billion and that it will grow rapidly during the following 4 fiscal years. At the end of fiscal 1983, it will have a balance of almost $22 billion, which is about 100 percent of estimated benefit expenditure in the following fiscal year. The effect of your committee's bill on the disability trust fund is shown in table A. Table C shows the cost and savings on a provision-by-provision basis. These reflect the estimates of the Social Security Administration actuaries. The estimate of the Congressional Budget Office which appears in section V shows slightly greater savings to the disability trust funds, and includes estimates of H.R. 3236's effect on general revenue funded income maintenance programs.

The improved condition of the fund is due not only to increased financing allocated to the disability program by the 1977 amendments but also to significant improved experience in the program. The fact that the effect of this experience is substantial is shown by table B, which compares estimated experience at the time of the 1977 amendments with actual and estimated experience in the just-released 1979 trustees report. On the other hand, in the near term the Old-Age and Survivors Insurance Trust Fund is expected to decline—due almost entirely to greater than estimated inflation—which about offsets the favorable disability experience. The OASI Trust Fund declines by over $6 billion in the next 3 fiscal years, with the fund totaling only

about 18 percent of annual expenditures at the beginning of 1981. Moreover, the two funds, on a combined basis, would total only about 22 percent of expenditures at that time.

Long Term.—On a long-term basis the situation of the Disability Insurance Trust Fund is also favorable. The 1979 trustee's report reflects new assumptions of substantially reduced disability incidence rates in the future as compared with those assumed in earlier reports. These changes are largely based on award experience since 1975 and particularly in 1978 (see table D), the reasons for which are not wholly known. The Subcommittee on Social Security has received considerable testimony that this may be the result of tighter administration and a growing reliance on the medical factors in the determination of eligibility for disability. Chart A shows the development of this trend since 1975.

CHART A.—Basis for disability allowances, fiscal years 1965, 1970, and 1973–78.



The 1978 trustee's report indicated a long-term actuarial deficiency of −0.14 percent of payroll in the disability insurance program but the more favorable assumptions as to incidence rates in the 1979 report has changed this to a 0.21 percent of payroll favorable balance (see table E). Your committee's bill provides a savings of 0.21 percent of payroll raising the actuarial surplus to .42 percent of payroll. Although this does put the program in a very desirable condition, its past history of volatility suggests caution in making any precipitous readjustment in allocation between trust funds. The long-range deficit in the OASI has increased slightly from −1.26 to −1.41 percent of payroll due primarily to assumptions as to lower mortality.

It should be emphasized that the estimates presented are based on the so-called intermediate assumptions and the use of either the pessimistic or optimistic assumptions would produce different results. The assumptions underlying each of the three sets of assumptions are explained in detail in the Trustees Report.

TABLE A.—DISABILITY INSURANCE TRUST FUND—BALANCE AT END OF FISCAL YEAR

[In billions]

	Present Law, 1979 Trustees Report	Present Law as amended by H.R. 3236
1980	$7.5	$7.5
1981	10.8	11.0
1982	16.0	16.5
1983	21.9	22.7

TABLE B.—DISABILITY INSURANCE TRUST FUND—BALANCE AT END OF CALENDAR YEAR

[In billions]

	Present law, 1977 law estimate	Present law, 1979 trustees report
1978	$3.5	[1] $4.2
1979	3.9	5.6
1980	4.4	7.5
1981	6.5	11.7
1982	8.6	17.0
1983	10.4	23.1

[1] Actual.

TABLE C.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISION OF H.R. 3236

[Pluses indicate cost, minuses indicate savings]

Provision [1]	Estimated effect on OASDI expenditures in fiscal years 1980–84 [2] (in millions)					Estimated effect on long range OASDI expenditures as percent of taxable payroll [2]
	1980	1981	1982	1983	1984	
Limitation on total family benefits for disabled-worker families (sec. 2)—						
Benefit payments	−$38	−$146	−$263	−$392	−$525	
Administrative costs	(3)	(3)	(3)	(3)	(3)	
Total	−38	−146	−263	−392	−525	−0.09
Reduction in number of dropout years for younger disabled workers (sec. 3)—						
Benefit payments	−12	−46	−89	−139	−194	
Administrative costs	(4)	+1	+1	+1	+1	
Total	−12	−45	−88	−138	−193	−.04
Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (sec. 5)—						
Benefit payments	+1	+2	+5	+9	+13	
Administrative costs	(4)	(4)	(4)	(4)	(4)	
Total	+1	+2	+5	+9	+13	+.01
Federal review of State agency, allowances (sec. 8)—						
Benefit payments	−4	−19	−73	−133	−198	
Administrative costs [6]	+6	+13	+16	+17	+17	
Total	+2	−6	−57	−116	−181	−.06
More detailed notices specifying reasons for denial of disability claims (sec. 9)—						
Benefit payments	(7)	(7)	(7)	(7)	(7)	
Administrative costs [6]	+19	+20	+21	+22	+23	
Total	+19	+20	+21	+22	+23	(5)

TABLE C.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISION OF H.R. 3236—Continued

[Pluses indicate cost, minuses indicate savings]

Provision	Estimated effect on OASDI expenditures in fiscal years 1980–84[2] (in millions)					Estimated effect on long range OASDI expenditures as percent of taxable payroll[3]
	1980	1981	1982	1983	1984	
Limit trust fund payments for costs of vocational rehabilitation services to only such services that result in a cessation of disability, as demonstrated by a return to work (sec. 13)—						
Trust fund payments		−40	−79	−83	−86	
Administrative costs		(4)	(4)	(4)	(4)	
Total		−40	−79	−83	−86	−.01
Payment for existing medical evidence and certain travel expenses (sec. 15 and 16)—						
Benefit payments	(5)	(5)	(5)	(5)	(5)	
Administrative costs[6]	+20	+21	+22	+23	+24	
Total	20	+21	+22	+23	+24	(8)
Periodic review of disability determinations (sec. 17)—						
Total benefit payments	−5	−30	−70	−109	−168	
For determinations made after enactment				−10	−20	
For determinations made before enactment	−5	−30	−70	−99	−148	
Administrative costs[4]	+31	+40	+42	+43	+45	
Total	+26	+10	−28	−66	−123	−.03
Benefit payments	−58	−239	−490	−764	−1,072	
Payments for costs of vocational rehabilitation services		−40	−79	−83	−86	
Administrative costs	+76	+95	+102	+106	+110	
Total net effect on OASDI Trust Fund expenditures	+18	−184	−467	741	−1,048	−.21

[1] The benefit estimates shown for each provision take account of the provisions that precede it in the table.
[2] Estimates are based on the intermediate assumptions in the 1979 trustees report.
[3] The estimated reduction in long-range average expenditures represents the total net change in both benefits and administrative expenses over the next 75 yr.
[4] Additional administrative expenses are less than $1,000,000.
[5] Additional funds will be required in fiscal year 1979 to establish the administrative framework for implementation of this proposal effective 1980.
[6] None.
[7] Assumes short concise statement and applies only to DI claims.
[8] Less than 0.005 percent.
[9] Additional expenditures for the payment of certain travel expenses amount to less than $1,000,000 in each year

Note: The above estimates are based on assumed enactment of H.R. 3236 in September 1979.

Source: Social Security Administration. Apr. 19, 1979.

TABLE D.—DISABLED WORKER BENEFIT AWARDS, 1968–78

	Number of awards	Awards per 1,000 insured workers
Calendar year:		
1968	323,514	4.8
1969	344,741	4.9
1970	350,384	4.8
1971	415,897	5.6
1972	456,562	6.0
1973	491,955	6.3
1974	535,977	6.7
1975	592,049	7.1
1976	551,740	6.5
1977	569,035	6.6
1978	457,451	5.2

TABLE E.—ESTIMATED AVERAGE EXPENDITURES OF OASDI SYSTEM; INTERMEDIATE ASSUMPTIONS BY REASON FOR CHANGE—EXISTING LAW 1979 TRUSTEE'S REPORT

[As percent of taxable payroll]

Item	Medium range			Long range		
	OASI	DI	Total	OASI	DI	Total
Shown in 1978 report: [1]						
Actuarial balance	+0.79	+0.23	+1.02	−1.26	−0.14	−1.40
Average scheduled tax rate	9.70	1.97	11.67	10.03	2.12	12.16
Estimated average expenditures	8.91	1.74	10.64	11.29	2.26	13.55
Changes in estimated average expenditures due to changes in— [2]						
Average wage indexing series	+.03	+.01	+.04	+.02	+0	+.02
Valuation date	−.02	+.03	+.01	+.06	+.01	+.07
Economic assumptions	+.17	+.03	+.20	+.05	+.01	+.06
Mortality assumptions	+.13	+0	+.13	+.39	+0	+.39
Disability assumptions		−.29	−.29		−.43	−.43
Methods	+.07	+.02	+.09	−.23	+.06	−.17
All other factors	−.22	−.02	−.24	−.11	+0	−.11
Total change in estimated average expenditures	+.16	−.21	−.05	+.18	−.34	−.16
Shown in this report: [3]						
Estimated average expenditures	9.07	1.52	10.59	11.47	1.92	13.38
Average scheduled tax rate	9.76	2.00	11.76	10.05	2.13	12.19
Actuarial balance	+.69	+.48	+1.17	−1.41	+.21	−1.20

[1] Expenditures and taxable peyroll are calculated under the intermediate set of assumptions (alternative II) described in last year's report which incorporates ultimate annual increeses of 5¼ percent in average wages in covered employment and 4 percent in the CPI, an ultimate annual unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. The averages are computed over projection periods commencing with 1978.

[2] See the text for a discussion of the items shown below.

[3] Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) described in the text of this report. The ultimate values for the annual increases in average wages in covered employment and in the CPI, for the annual unemployment rate and for the total fertility rate are the same as those included in the intermediate set of assumptions described in last year's report. The averages are computed over projection periods commencing with 1979.

Note: 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 F.—OPERATIONS OF THE DISABILITY INSURANCE TRUST FUND UNDER EXISTING LAW DURING SELECTED FISCAL YEARS 1960–78 AND ESTIMATED FUTURE OPERATIONS DURING FISCAL YEARS 1979–83 UNDER THE INTERMEDIATE SET OF ASSUMPTIONS

[In millions]

Fiscal year [1]	Transactions during period										
	Income				Disbursements						
	Total	Contributions, less refunds	Reimbursements from general fund of Treasury for costs of noncontributory credits for military service	Interest on investments [2]	Total	Benefit payments	Payments for vocational rehabilitation services	Administrative expenses [2]	Transfers to railroad retirement account	Net interest in fund	Fund at end of period
Past experience: [3]											
1960	$1,034	$987	----------	$47	$533	$528	----------	$32	−$27	$501	$2,167
1965	1,237	1,175	----------	62	1,495	1,392	----------	79	24	−257	2,007
1966	1,611	1,557	----------	54	1,931	1,721	$1	183	25	−321	1,686
1967	2,332	2,249	$16	67	1,997	1,861	7	99	31	335	2,022
1968	2,800	2,699	16	85	2,236	2,088	15	112	20	564	2,585
1969	3,705	3,532	32	141	2,613	2,443	15	133	21	1,092	3,678
1970	4,380	4,141	16	223	2,954	2,778	16	149	10	1,426	5,104
1971	4,911	4,569	16	325	3,606	3,381	21	190	13	1,305	6,408
1972	5,291	4,853	50	388	4,309	4,046	28	212	24	982	7,390
1973	5,947	5,461	51	435	5,467	5,162	39	247	20	479	7,869
1974	6,768	6,234	52	482	6,385	6,159	50	154	22	383	8,253
1975	7,920	7,356	52	512	7,982	7,630	71	253	29	−62	8,191
1976	8,355	7,797	90	468	9,606	9,222	92	266	26	−1,251	6,939
July to September 1976	2,172	2,159	----------	13	2,653	2,555	27	71	----------	−481	6,459
1977	9,374	8,900	103	372	11,590	11,135	77	378	(4)	−2,215	4,243
1978	12,784	12,404	128	251	12,655	12,214	84	327	30	129	4,372
Estimated future experience: [5]											
1979	15,297	14,850	142	305	14,005	13,552	94	3 4	−5	1,292	5,664
1980	17,494	16,954	118	422	15,709	15,199	102	423	−15	1,785	7,439
1981	20,759	20,041	128	590	17,323	16,798	109	442	−26	3,436	10,885
1982	24,097	23,031	155	911	18,984	18,452	115	465	−48	5,113	15,998
1983	26,522	25,067	159	1,296	20,648	20,106	120	488	−66	5,874	21.872

[1] Under the Congressional Budget Act of 1974 (Public Law 93–344), fiscal years 1977 and later consist of the 12 mo ending on Sept. 30 of each year. The act further provides that the calendar quarter July to September 1976 is a period of transition from fiscal year 1976, which ended on June 30, 1976, to fiscal year 1977, which began on Oct. 1, 1976.

[2] Interest on investments includes net profits on marketable investments. Beginning in 1976, administrative expenses incurred under the disability insurance program are charged currently to the trust fund on an estimated basis, with a final adjustment, including interest, made in the following fiscal year. The amounts of these interest adjustments are included in interest on investments. For years prior to 1967, a description of the method of accounting for administrative expenses is contained in the 1970 Annual Report of the Board of Trustees.

[3] The financial operations of the disability insurance trust fund began in the latter half of fiscal year 1957.

[4] Less than $500,000 was transferred from the railroad retirement account to the disability insurance trust fund.

[5] In interpreting the estimates, reference should be made to the underlying assumptions described in the preceding section and shown in tables 10 and 11.

TABLE G.—CONTRIBUTION AND BENEFIT BASE AND CONTRIBUTION RATES—OASDI

Calendar years	Contribution and benefit base	Contribution rates (percent of taxable earnings)					
		Employees and employers, each			Self-employed		
		OASDI	OASI	DI	OASDI	OASI	DI
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	.5260
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	.8159
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
1979	22,900	5.080	4.330	.750	7.0500	6.0100	1.0400
Changes scheduled in present law:							
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	(1)	5.400	4.575	.825	8.0500	6.8125	1.2375
1985–89	(1)	5.770	4.750	.950	8.5500	7.1250	1.4250
1990 and later	(1)	6.200	5.100	1.100	9.3000	7.6500	1.6500

[1] Subject to automatic increase.

TABLE H.—DISABILITY INSURANCE BENEFICIARIES WITH MONTHLY BENEFITS IN CURRENT-PAYMENT STATUS AS OF JUNE 30 UNDER INTERMEDIATE ASSUMPTIONS, CALENDAR YEARS 1975–2055

[In thousands]

Calendar year	Workers	Wives and husbands	Children	Total
Actual:				
1975	2,363	429	1,333	4,125
1976	2,602	468	1,462	4,532
1977	2,755	482	1,496	4,733
1978	2,858	491	1,512	4,861
Estimated:				
1979	2,895	489	1,497	4,881
1980	2,942	486	1,486	4,914
1985	3,335	496	1,484	5,315
1990	3,862	644	1,465	5,971
1995	4,457	705	1,603	6,765
2000	5,209	781	1,829	7,819
2005	6,061	874	2,070	9,005
2010	6,777	961	2,277	10,015
2015	7,180	1,001	2,425	10,606
2020	7,260	1,008	2,538	10,806
2025	7,042	987	2,540	10,569
2030	6,766	956	2,446	10,168
2035	6,744	956	2,397	10,097
2040	6,950	979	2,438	10,367
2045	7,206	1,010	2,538	10,754
2050	7,316	1,024	2,606	10,946
2055	7,325	1,030	2,619	10,974

Source: 1979 Trustees Report.

TABLE I.—LONG-RANGE COST ESTIMATES FOR THE PROVISIONS OF H.R. 3236 ASSUMING EFFECTIVE DATE OF JAN 1, 1980: ESTIMATES SHOWN FOR EACH PROVISION TAKE INTO ACCOUNT INTERACTION WITH PROVISIONS THAT PRECEDE IN THE TABLE

	Estimated long-range cost as percent of taxable payroll based on 1979 trustees reports intermediate assumptions		
	OASI	DI	HI[1]
1. Limit total DI family benefits to the smaller of 80 percent of AIME or 150 percent of PIA. No family benefit would be reduced below 100 percent of the worker's PIA	(2)	−0.09	(2)
2. Compute DI benefits using one dropout year for each 5 full elapsed years. However, if the worker provided principal care of a child (own child or spouse's) under age 6 for more than 6 mo in any calendar year which is included in the worker's elapsed years, the number of dropout years is increased by 1 for each such calendar year. The maximum number of dropout years allowed is 5. Continue application of this provision for retirement benefits when disabled worker attains age 65 but not for survivor benefits when he dies. (Child care dropout provision effective Jan. 1, 1981)	(2)	−.04	(2)
3. Exclude from earnings used in determining ability to engage in SGA the cost to the worker of any extraordinary work related expenses due to severe impairmant including routine drugs and routine medical services	(2)	.01	(2)
4. Provide trial work period for disabled widows/widowers	(2)	-------	(2)
5. For any disabled worker, widow(er), or child who engages in substantial gainful activity within 13 mo after the completion of the trial period (TWP) DI benefits are terminated after the 15th mo following completion of the TWP. Suspend DI benefits for any month during the 15 mo following completion of the TWP in which the beneficiary engages in substantial gainful activity, excluding the 1st 3 such months	(2)	(2)	(2)
6. Extend medicare coverage for 24 mo after SGA termination following the completion of a trial work period	(2)	(2)	(2)
7. Eliminate the requirement that months in the medicare waiting period be consecutive for persons returning to beneficiary status within 60 mo of termination. (84 mo for disabled children or disabled widows/widowers)	(2)	(2)	(2)
Proposals 6 and 7 combined	(2)	(2)	+0.01
8. Provide that determinations of disability be made by secretary or by State agency pursuant to an agreement with the secretary. The Federal-State agreement is optional and could be terminated by either State or secretary. Provide that secretary alone determine reimbursement to State for actual costs of making disability determinations	(2)	(2)	(2)
9. SSA preadjudicative review of at least 65 percent of State agency initial determinations (allowances only), fully effective in fiscal year 1982	(2)	−.06	−.01
10. Provide claimant with written summary of evidence used in making disability determination	(2)	(2)	(2)
11. Provide that the Secretary's authority to remand a court case to the ALJ be discretionary with the court upon a showing of good cause by the secretary. Require that the court may remand only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding	(2)	(2)	(2)
12. For any person whose disability ceases as a result of rehabilitation (as demonstrated by 12 continuous months of employment either at the level of SGA or in a sheltered workshop), the DI trust fund will reimburse the U.S. Treasury the Federal share of the VR cost for that person. No DI trust fund reimbursement will be made otherwise	(2)	−.01	(2)
13. Provide that no beneficiary be terminated due to medical recovery if the beneficiary is participating in an approved VR program which SSA determines will increase the likelihood that the beneficiary may be permanently removed from the disability benefit rolls	(2)	(2)	(2)
14. Require secretary to pay all non-Federal providers for costs of supplying medical evidence of record in title II disability claims	(2)	(2)	(2)
15. Authorize payments from DI trust fund for claimant's travel expenses resulting from undergoing a medical exam required by Secretary. Pay for travel expenses of claimants, representatives, and witnesses in attending reconsideration interviews and hearings			
16. Require State agency or secretary to review the cases of disability beneficiaries at least once every 3 yr for purposes of determining continuing eligibility. If the beneficiary's disability is determined to be permanent, the periodic review is not required	(2)	−.03	(2)
Total for H.R. 3236[3]	(2)	−.21	−.01

[1] 25-yr average cost.
[2] Less than 0.005 percent.
[3] Due to rounding, separate estimates for the provisions may not add to the total.

TABLE J.—EFFECT OF FAMILY LIMITATION ON DISABILITY BENEFICIARIES—DISABLED WORKER AND 2 DEPENDENTS, 1980 [1]

Annual indexed earnings	Current law benefit	80 percent of AIME or 150 percent of PIA (H.R. 3236)	Amount of reduction relative to existing law
80 percent of AIME:			
$1,750	$2,363	$1,576	$787
$4,250	4,077	3,400	677
$5,750	5,039	4,600	439
150 percent of PIA:			
$7,500	6,506	5,636	924
$9,250	8,084	6,476	1,608
$10,900	8,795	7,268	1,527
$12,650	9,546	8,109	1,437
$14,250	10,309	8,845	1,464
$16,000	10,776	9,238	1,538

[1] Based on intermediate assumptions contained in 1979 Trustees Report. Limitation only applies to entitlements after 1979 and does not apply to individuals currently on rolls. AIME is average indexed monthly earnings; PIA is primary insurance amount.

IV. Section-by-Section Analysis

SHORT TITLE

Section 1 provides the short title and table of contents of the Disability Insurance Amendments of 1979.

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

Section 2(a)(1) of the bill amends section 203(a)(1) of the Social Security Act (as in effect after December 1978) by adding a reference to a new paragraph (6), which would limit family disability benefits.

Section 2(a)(2) of the bill provides that paragraphs (6), (7), and (8) of section 203(a) of the act are redesignated as paragraphs (7), (8), and (9), respectively.

Section 2(a)(3) of the bill adds a new paragraph (6) to section 203(a) of the act, which provides that family benefits based on the earnings of a disabled worker (and before the application of the worker's compensation offset) are limited to the smaller of 80 percent of the worker's average indexed monthly earnings (but not less than the worker's primary insurance amount) or 150 percent of the worker's primary insurance amount. The limit will apply to the original family benefit and will be subject to automatic cost-of-living adjustments.

Section 2(b)(1) of the bill amends section 203(a)(2)(D) of the act to refer to redesignated paragraph (8).

Section 2(b)(2) of the bill amends section 203(a)(7) of the act (203(a)(8) after redesignation) to refer to redesignated paragraph (7).

Section 2(b)(3) of the bill amends section 215(i)(2)(a)(ii)(III) of the act to refer to redesignated paragraphs (7) and (8) of section 203(a).

Section 2(c) of the bill provides that the amendments made by section 2 of the act will apply with respect to initial eligibility for benefits after 1978 and initial entitlement to disability benefits beginning after 1979.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

Section 3(a) of the bill amends section 215(b)(2)(A) of the Social Security Act (as in effect after December 1978) to reduce the number of years that can be dropped from a worker's benefit computation years for a worker who becomes disabled before reaching age 47.

1. The revised clause (i) of section 215(b)(2)(A) provides that the number of years that can be dropped in the case of survivor's benefits will continue to be 5 as under present law; this is also true for old-age cases unless the worker was entitled to a disability benefit for the month before he reached age 65.

2. The new clause (ii) provides that the number of years that can be dropped in a disability case cannot exceed one-fifth of the individual's elapsed years—years after 1951 or age 21; if later, and up to the year of onset of disability. Any resulting fraction of a year will be disregarded.

The limit on the number of dropout years will continue to apply in determining the worker's primary insurance amount in the event of the worker's subsequent disability, or when he reaches age 65, unless he is not entitled to disability insurance benefits for at least 12 months before he becomes eligible again for disability benefits or reaches age 65.

Section 215(b)(2)(A) is also revised to provide for additional dropout years for certain people affected by the reduction in dropout years described above. Under this provision, where regular dropout years are limited to less than 5 by reason of clause (ii), 1 year not otherwise dropped could be dropped for each year in which the worker is responsible for providing, and provides, the principal care of his or her child (or the spouse's child) under the age of 6 for at least 6 full months. (The total number of regular and child care dropout years cannot exceed 5.)

As under present law, section 215(b)(2)(A) provides that the number of an individual's benefit computation years shall be no less than 2.

Section 3(b) of the bill amends section 223(a)(2) of the act to add a reference to new section 215(b)(2)(A)(ii).

Section 3(c) of the bill provides that the amendments made by sections 3(a) and 3(b) of the act, except for the amendment providing for child-care dropout years, would apply with respect to initial entitlements to disability benefits beginning on or after January 1, 1980. The amendment made by section 3(a) dealing with child-care dropout years would be effective for monthly benefits payable for months after 1980.

WORK INCENTIVE—SUBSTANTIAL GAINFUL ACTIVITY DEMONSTRATION PROJECT

Section 4(a) of the bill directs the Commissioner of Social Security to develop and carry out experiments and demonstration projects to determine the relative advantages and disadvantages of alternative methods of treating work activity of social security disability beneficiaries including a reduction in benefits based on earnings, with the objective of encouraging disabled beneficiaries to return to work.

Section 4(b) provides that these projects be of sufficient scope to permit a thorough evaluation of the alternative methods under consideration without committing the disability insurance program to the adoption of any prospective system under consideration.

Section 4(c) provides that the Secretary may waive compliance with the benefit requirements of titles II and XVIII to the extent necessary to effectively carry out such projects; however, no such experiment or project can be implemented until 90 days after notification by the Commissioner of Social Security to the House Committee on Ways and Means and the Senate Committee on Finance. Periodic reports on the progress of such experiments or demonstration projects, including recommendations for changes in law or administration, shall be submitted to the committees.

Section 4(d) specifies that the Commissioner of Social Security shall submit to the Congress, no later than January 1, 1983, a final report on the experiments and demonstration projects, including appropriate related data and materials.

Section 4(e) adds to section 201 of the Social Security Act a new subsection (j) to provide that expenditures made for experiments and demonstration projects will be made from the Federal disability insurance and Federal old-age and survivors trust funds.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

Section 5 of the bill amends section 223(d)(4) of the Social Security Act to provide that, where an individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, an amount equal to the cost to him of necessary attendant care services, medical devices, equipment, or prostheses, and similar items and services (not including routine drugs and routine medical care and services unless such drugs are necessary for the control of the disabling condition), whether or not such assistance is also needed for his normal daily functions, shall be excluded from his earnings in determining whether he is able to engage in substantial gainful activity by reason of his earnings.

PROVISION OF TRIAL WORK PERIOD FOR DISABLED WIDOWS; EXTENSION OF ENTITLEMENT TO DISABILITY INSURANCE BENEFITS AND RELATED BENEFITS

Section 6(a) of the bill amends sections 222(c)(1) and (3) of the act to provide a trial work period to disabled widows and widowers in the same manner as provided for disabled workers. These amendments shall apply to those whose disability has not ceased prior to enactment.

Section 6(b)(1) of the bill amends sections 223(a)(1), 202(d)(1)(G), 202(e)(1), and 202(f)(1) of the Social Security Act to extend an individual's status as a disabled individual for 15 months after the completion of a 9-month trial work period, as long as he has not medically recovered Subsection (b)(2) adds a new subsection (e) to section 223 to provide that no benefits would be payable during the last 12 months of this period as long as the individual is engaging in substantial gainful activity. The effect of this amendment will be to allow an individual to return to benefit status without going through the process of reestablishing the fact that he is disabled. Subsection (b)(3) extends medicare coverage for beneficiaries who have completed a

period of trial work, but who have not medically recovered, through the benefit suspension period provided in subsections (b)(1) and (b)(2) and for 24 months afterward, or, if earlier, until the person medically recovers. Subsection (b)(4) provides that these amendments apply to those individuals whose disability has not been determined to have ceased prior to enactment.

ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

Section 7(a) amends sections 226(b), 1811, and 1837(g)(1) of the Social Security Act, and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 by striking out the word "consecutive" wherever it appears, thereby modifying the medicare 24-month waiting period requirement so that these months need not be consecutive.

Section 7(b) further amends section 226 by adding a new subsection, which provides that, for an individual who is reentitled to the same type of monthly disability benefits, the 24-month waiting period may not include any month in a previous period of disability, if (1) the individual is reentitled as a disabled worker and the previous period of disability terminated more than 60 months before reentitlement; or (2) the individual is reentitled as an adult disabled since childhood, or as a disabled widow or widower, and the previous period of disability terminated more than 84 months before reentitlement.

Section 7(c) provides that these amendments apply to medicare protection for months after the month of enactment.

DISABILITY DETERMINATION; FEDERAL REVIEW OF STATE AGENCY ALLOWANCES

Section 8(a) of the bill amends section 221(a) of the Social Security Act to provide that disability determinations shall be made by State agencies in States that provide a written notice (rather than State agreements, as under present law) to the Secretary stating that they wish to make such determinations, unless the State has previously been found to have substantially failed to make determinations in accordance with the law and the Secretary's regulations, or unless the State has previously declined to administer under this section, in which case the Secretary may determine when and if the State may again make disability determinations. Section 8(a) further provides that disability determinations shall be made (or not made for specified classes of clamants) in accordance with regulations or other written guidelines issued by the Secretary. The Secretary is required to promulgate regulations specifying performance standards and administrative procedures to assure effective and uniform administration, and may issue regulations on State agency administrative structure, and other administrative areas (examples are given in the bill, pp. 15–16).

Section 8(b) of the bill amends section 221(b) of the Social Security Act to provide for notice to a State and opportunity for a hearing if the Secretary determines that the State is substantially failing to make determinations in a manner consistent with the regulations and other written guildelines. If the Secretary makes such a determination, he thereafter will take over the making of the disability determinations

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in that State not earlier than the expiration of 180 days. If the State no longer wishes to participate in the program it must notify the Secretary but shall continue to make determinations for not less than 180 days after notification.

Section 8(c) of the bill amends section 221(c) of the Social Security Act to provide (1) that the Secretary shall (rather than "may on his own motion") review State agency determinations that a person is under a disability; (2) that such review shall be made before a determination is implemented and benefits are paid; and (3) that the requirement that the Secretary review such determinations (per (1) above) will be met if he reviews at least 15 percent in fiscal year 1980, 35 percent in fiscal year 1981, and 65 percent in fiscal year 1982 and thereafter.

Sections 8(d), (e) and (f) make conforming changes in the statutory language.

Section 8(g) provides that the amendments made by this section shall be effective 12 months after the month of enactment. Any State that has an agreement with the Secretary already in effect on the effective date will be deemed to have given the notice of participation specified in these amendments. Thereafter, States must give 180 days notice of desire to cease making disability determinations.

Section 8(h) of the bill requires that the Secretary submit to the Ways and Means Committee and Senate Finance Committee by January 1, 1980 a detailed plan on how the Department expects to assume the functions of a State disability determination unit should this become necessary under amendments made by section 8(b). The bill provides that the plan should assume uninterrupted and qualified operation of the function and include any amendments to federal law required to carry out such a plan.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

Section 9(a) of the bill amends section 205(b) of the Social Security Act to require that any decision by the Secretary shall contain a statement of the case setting forth (1) a list of the pertinent law and regulations, (2) a list and summary of the evidence of record, and (3) the Secretary's determination and the reason(s) upon which it is based.

Section 9(b) provides that this amendment will be effective with respect to decisions made on and after the first day of the second month following the month of enactment.

LIMITATION OF PROSPECTIVE EFFECT OF APPLICATION

Section 10 would amend section 202(j)(2) of the Social Security Act (with parallel amendments to sections 216(i)(2)(G) and 223(b)) to shorten the prospective effect of an application for benefits under title II. In present law, section 202(j)(2) provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. The amendment made by this section would allow the issuance of regulations to foreclose the introduction of new evidence with respect to a previously

filed application after the decision is made at the administrative hearing, but would not affect administrative or judicial remand authority to remedy an insufficiently documented case or other defect. The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

Section 11 of the bill amends section 205(g) of the Social Security Act to provide that the court may, on motion of the Secretary made for good cause shown, remand a case to the Secretary for further action, and that the court may order new and material evidence to be taken before the Secretary if there was good cause for such evidence not having been submitted previously.

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

Section 12 of the bill provides that the Secretary shall submit to the Congress, no later than January 1, 1980, a report recommending the establishment of time limits on decisions on benefit claims. This report shall specifically recommend the maximum periods of time within which (*a*) initial, (*b*) reconsideration, (*c*) hearing, and (*d*) appeals council decisions should be made, taking into consideration both the need for expeditious processing of claims and the need for thorough consideration and accurate determinations of such claims.

VOCATIONAL REHABILITATION SERVICES FOR DISABLED INDIVIDUALS

Section 13 of the bill amends section 222(d) of the Social Security Act to change the provisions authorizing reimbursement from the social security trust funds for the costs of rehabilitation services provided disabled individuals entitled to benefits on the basis of disability.

Section 13(a) of the bill substitutes a revised section 222(d) of the Social Security Act. Paragraph (1) of the revised section 222(d) authorizes the transfer of sums from the trust funds to enable the Secretary to reimburse the general fund of the U.S. Treasury for the Federal share and the State for twice the State share of the reasonable and necessary costs of vocational rehabilitation services furnished under a State plan approved under title I of the Rehabilitation Act of 1973 to disabled individuals entitle to benefits on the basis of disability which results in performance of substantial gainful activity for a continuous period of 12 months, or which results in their employment for a continuous period of 12 months in a sheltered workshop. The Commissioner of Social Security will establish criteria to determine: (1) When the vocational rehabilitation service contributed to successful return to SGA or employment in sheltered workshops and (2) the amount of the costs to be reimbursed. (Under present law, the Secretary is authorized to pay the costs of vocational rehabilitation services for such disabled beneficiaries but the total amount available for this purpose may not exceed 1.5 percent of the total cash benefits paid to disabled workers, disabled widows, disabled widowers, and disabled adult children in the preceding fiscal year.)

The existing paragraph (2) of section 222(d) (relating to requirements for State plans providing rehabilitation services) is eliminated from the revised section.

The existing paragraph (3) of section 222(d) (relating to agreements between the Secretary and public or private agencies for rehabilitation services in States which do not have a plan) is eliminated from the revised section.

The existing paragraph (4) of section 222(b) (relating to arrangements for making payments under this section) is redesignated as paragraph (2) and is amended to provide that payments from the trust funds shall be made in advance (rather than "may be made in installments and in advance") or by way of reimbursement, with necessary adjustments for overpayments and underpayment.

The existing paragraph (5) of section 222(d) (relating to the Secretary's authority to establish methods and procedures for determining the total amount to be reimbursed for the cost of the services, and the amounts to be charged to the individual trust funds) is redesignated as paragraph (3) without any substantive change.

The existing paragraph (6) of section 222(d) (relating to the meaning of the term "vocational rehabilitation services") is redesignated as paragraph (4) and is amended to state that the term "vocational rehabilitation services" would have the meaning assigned to it in title I of the Rehabilitation Act of 1973 (rather than "in the Vocational Rehabilitation Act"), except that such services may be limited in type, scope, or amount in accordance with regulations designed by the Secretary to achieve the purpose of this subsection.

Section 13(a) of the bill also adds a new paragraph (5) to section 222(d) of the Social Security Act to authorize and direct the Secretary to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries in order to realize maximum savings to the trust funds, and, on or before January 1, 1980, to transmit a report to the President and the Congress containing findings, conclusions, and any recommendations.

Section 13(b) of the bill provides that the amendment made by subsection (a) would apply with respect to fiscal years beginning after September 30, 1980.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

Section 14 of the bill adds to section 225 of the Social Security Act a new subsection (b) to provide that benefits based on disability will not be terminated or suspended because the physical or mental impairment on which such entitlement is based has (or may have) ceased if such beneficiary is participating in an approved vocational rehabilitation program, and the Commissioner of Social Security determines that the completion of such program (or its continuation for a specified period of time) will increase the likelihood that the beneficiary may be permanently removed from the benefit rolls.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

Section 15(a) of the bill amends section 223(d)(5) of the Social Security Act to provide that any non-Federal hospital, clinic, labora-

tory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

Section 15(b) provides that the amendment made by subsection (a) shall apply with respect to evidence supplied on or after the date of the enactment of the act.

PAYMENT OF CERTAIN TRAVEL EXPENSES

Section 16 of the bill adds to section 201 a new subsection (k) to the Social Security Act to authorize payments from the trust funds, to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations under section 221, and to applicants, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in secion 210(i)) to attend reconsideration interviews and proceedings before administrative law judges under title II of the Social Security Act. The new subsection (k) would provide that payments for air travel shall not exceed coach fare, unless first class accommodations are required due to the health condition of the individual or the unavailability of alternative accommodations. Payments for other means of travel could not exceed the most economical and expeditious arrangements appropriate to such person's health.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

Section 17 of the bill amends section 221 of the Social Security Act by adding a requirement that, unless a finding has been made that an individual's disability is permanent, the case will be reviewed by either the State agency or the Secretary, for purposes of continuing eligibility, at least once every 3 years. Reviews of cases under the provision shall not be considered as an addition to, and shall not be considered a substitute for, any other reviews of cases in the administration of the disability program.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

1. 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, as amended. The motion to report the bill was adopted by a voice vote.

2. 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.

For the last 5 years the full committee and, since its establishment, the Subcommittee on Social Security, have conducted extensive oversight activities on the disability insurance program. These activities are reflected in almost every section of the bill reported by your committee. The following are a few examples.

REPLACEMENT RATE

In late 1975 the subcommittee hired John H. Miller, probably the foremost disability insurance actuary in the country, to study the then deteriorating actuarial condition of the system. Mr. Miller pointed to growing replacement rates as a major contributing factor to this adverse experience. Robert J. Myers, former Chief Actuary of the Social Security Administration, also emphasized this point in the actuarial studies he prepared for the subcommittee in 1975 and 1978. Our "decoupling" legislation in 1977 and section 2 (family benefit limitation) and section 3 (drop-out years) in your committee bill have the effect of substantially reducing replacement rates so that they are neither so much of an incentive to apply for benefits nor a disincentive for beneficiaries to leave the rolls.

NEEDED RESEARCH

Through its oversight activities, your committee found that little in the way of pertinent research material is available in the general area of work incentives for disabled workers. Research findings as to the effect of raising the amount of money that constitutes substantial gainful activity, trial work periods and alternative methods of treating work activity of disabled workers are urgently needed for enlightened policy determinations. Section 4 authorizes experiments and demonstrations in these areas and the waiver of the disability insurance and medicare law when appropriate.

PROGRAM ACCOUNTABILITY

As a result of extensive staff investigation and studies by the General Accounting Office in 1976 and 1978, your committee has found significant weaknesses in the existing Federal/State arrangement and believes that a strengthening of the adjudicative structure and increased Federal supervision and control of State decision making is necessary. Section 8 carries out this objective by authorizing the Secretary of Health, Education, and Welfare to establish a more cohesive and responsive system by regulation.

In addition, your committee has followed closely a significant administrative change in the disability program made in 1972 that was tantamount to an amendment to the statutory scheme of the program. The change from a broad preadjudicative to a very narrow postadjudicative sample review of state agency disability decisions has contributed, in the view of the actuaries, to higher disability incidence rates. Due in part to the Subcommittee on Social Security's oversight of the quality assurance system, recently there has been an improvement in the actuarial condition of the disability program. Section 8 which calls for a return of Federal preadjudicative review and section 17 which requires periodic re-examination of beneficiaries on the rolls will enhance quality of decisionmaking.

REHABILITATION

As to work incentives and rehabilitation, the committee directed the GAO in 1975 to study the trust fund beneficiary rehabilitation pro-

gram. It reported a declining cost-benefit savings ratio for the rehabilitation program and suggested an administrative freeze pending action by the executive and legislative branches which would emphasize the goal of rehabilitations which result in benefit terminations. Section 13, which authorizes trust fund participation only on the basis of the beneficiary's demonstrated return to the labor market evolved from these studies and the subcommittee staff's own oversight activities in this area. The GAO study also suggested numerous changes in the work incentive aspects of the law, some of which are included in your committee's bill; i.e., the extension of medicare coverage after benefit termination (section 6) and elimination of the second waiting period (section 7).

COURT REMAND

Weaknesses in the court remand procedure have been pointed out in earlier oversight studies (the Harrison subcommittee) and more recently, by the Center for Administrative Justice, whose study was recommended by the Ways and Means and Senate Finance Committees. Section 11 limits discretion for both the Secretary of HEW and the courts in their ability to make remands back to the administrative level.

3. In compliance with clause 2(l)(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.

4. 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 incurred in carrying out this bill. A complete discussion of the costs of the social security program provisions of the bill is contained in section III of this report, which describes the financing and operations of the program as amended.

5. In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3236 will not have a significant inflationary impact on the national economy.

6. Your committee's cost estimates relating to the provisions of the bill, relating to the Old-Age, Survivors and Disability Insurance program and the Hospital Insurance programs, which were furnished to the committee by the Department of Health, Education, and Welfare, constitute the best information available at this time. Estimates of the bill's impact on general revenue expenditures are set forth in the materials supplied by the Congressional Budget Office, which follow.

7. In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, your committee advises that H.R. 3236, as reported by your committee, involves no new or increased tax expenditures, and the new budget authority involved therein is tabulated in the report of the Congressional Budget Office, below.

8. In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the cost estimate supplied your committee by the Congressional Budget Office follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., April 19, 1979.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Sections 308(a) and 403 of the Congressional Budget Act, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3236, a bill to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 3236.

2. Bill title: To amend Title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance (DI) program, and for other purposes.

3. Bill status: As ordered reported by the Committee on Ways and Means on April 9, 1979.

4. Bill purpose: The primary purposes of this bill are (1) to limit benefits to new disability recipients with families and to younger disabled workers; (2) to provide certain work incentives with the objective of increasing the recovery rate of disabled workers; (3) to codify and strengthen certain administrative practices.

5. Cost estimates: It is estimated that H.R. 3236 will result in a net reduction in outlays from the disability insurance trust fund. Budgetary authority is estimated to rise as a result of increased interest from the larger trust fund balances. The effects on the DI trust fund are shown below.

Estimated change in DI outlays and budget authority

	Millions
Estimated budget authority:	
Fiscal year:	
1980	[1]
1981	$13
1982	45
1983	99
1984	173
Estimated outlays:	
Fiscal year:	
1980	−17
1981	−337
1982	−620
1983	−924
1984	−1,212

[1] Less than $500,000.

H.R. 3236 affects outlays in other income maintenance programs and in the hospital insurance (HI) and supplemental medical insurance (SMI) trust funds.

Required budget authority in the income maintenance programs which are entitlements would change by the estimated change in outlays. Budget authority in the HI and SMI change by the change in interest resulting from the changed trust fund balances.

The net effect on the total federal budget is given below:

Estimated net costs or savings to the Federal budget

	Millions
Estimated budget authority:	
Fiscal year:	
1980	$26
1981	51
1982	79
1983	120
1984	197
Estimated outlays:	
Fiscal year:	
1980	24
1981	—241
1982	—496
1983	—816
1984	—1,135

6. Basis for estimates: The tables below summarize the major provisions affecting the DI trust funds and the other federal offsets.

TABLE 1.—ESTIMATED COSTS AND SAVINGS TO THE DISABILITY INSURANCE TRUST FUND OF MAJOR PROVISIONS OF H.R. 3236

[By fiscal years, in millions of dollars]

	Fiscal year				
	1980	1981	1982	1983	198
Combined provisions to limit total family benefit and reduce the number of dropout years for younger workers	—72	—244	—439	—615	—773
65 percent preadjudicative review of initial determinations by fiscal year 1982	—8	—35	—99	—199	—301
Review of continuing disability cases once every 3 yrs	23	16	—1	—22	—42
Reimbursement to States for vocational rehabilitation only when recipient is successfully rehabilitated	0	—118	—129	—141	—154
More detailed notices of denials	19	20	21	22	23
Costs to DI of other sections	21	24	27	31	35
Total DI trust fund savings	—17	—337	—620	—924	—1,212

[1] Savings of the DI trust fund are partially offset by costs to other income maintenance and health programs. In addition, certan provisions of this bill affect the SSI program. The impact of ths bill on these other programs is shown in table 2.

TABLE 2.—ESTIMATED CHANGE IN OUTLAYS IN OTHER FEDERAL INCOME MAINTENANCE PROGRAMS AND TO THE HI AND SMI TRUST FUNDS FROM PROVISIONS OF H.R. 3236

[In millions of dollars]

	Fiscal year				
	1980	1981	1982	1983	1984
Cap on family benefits and reduced number of dropout years:					
Federal income maintenance programs estimated outlays	11	39	67	93	113
2 12-mo trial work period and 2-yr extension of medicare:					
HI: Estimated outlays	11	38	61	67	73
SMI: Estimated outlays	7	25	39	43	47
Increased review of initial DI awards:					
HI: Estimated outlays	0	0	—2	—8	—26
SMI: Estimated outlays	0	0	—1	—5	—17
Periodic review of continuing DI cases:					
HI: Estimated outlays	—2	—5	—9	—14	—19
SMI: Estimated outlays	—1	—3	—6	—9	—12
Supplemental security income [1]	15	2	—25	—59	—82
Total estimated outlays	41	96	124	108	77

[1] These costs or savings to SSI represent administration estimates resulting from provisions to increase the preadjudicative review of initial allowances and implementation of the periodic review of continuing DI cases.

Section 2 and 3—Limitations on Total Famil Benefits in Disability Cases, and the Reduction in the Number of Drop-out Years for Younger Disabled Workers

Section 2 changes the way the maximum family benefit is computed by providing that the total family benefit not exceed 80 percent of average indexed monthly earnings (but not to fall below the primary insurance amount) or 150 percent of the worker's primary insurance amount. Section 3 reduces the number of "drop-out" years that may be taken for calculating AIME for younger workers. The provision, however, also allows one drop-out year for each year in which a worker had provided the principal care of a child under age 6 (but not to exceed 5 drop-out years).

Close to 30 percent of disabled worker beneficiaries receive dependents benefits and of this group an estimated 84 percent would receive reduced family benefits as a result of sections 2 and 3 combined. On average, the benefit for disabled worker beneficiaries with dependents would be lower by 15 percent under H.R. 3236. As indicated in the table below, total savings in fiscal year 1980 attributable to reduced benefits to beneficiaries with dependents are estimated to be $64 million, rising to $672 million in 1984. Some lower income beneficiaries, however, would receive offsetting increases in income maintenance payments estimated to be $8 million in 1980, rising to $83 million by 1984. As indicated in the table, smaller savings in DI payments and costs in terms of increased income maintenance payments are estimated for workers without dependents benefits as a result of the drop-out provision.

CBO estimates are based on a sample of disabled workers (and their families) awarded benefits between 1973 and 1976. In order to project benefits for workers first coming on the rolls in 1980, the earnings histories of the workers in the sample were wage indexed and the new wage indexed formula was applied to these earnings. Benefits were adjusted to account for the higher level of AIME between 1973–1976 and 1980, 1981, 1982, and so on using CBO economic assumptions. Benefits were calculated under current (1980) law and under the provisions of H.R. 3236 to derive the change in benefits from current law in each year, 1980–1984.

ESTIMATED SAVINGS IN DISABILITY INSURANCE PAYMENTS AND INCREASES IN FEDERAL INCOME MAINTENANCE PAYMENTS ARISING FROM H.R. 3236 PROVISIONS LIMITING TOTAL FAMILY BENEFIT AND REDUCING THE NUMBER OF DROPOUT YEARS FOR YOUNGER WORKERS

[In millions of dollars]

	Fiscal year				
	1980	1981	1982	1983	1984
Workers with dependents benefits:					
Savings in DI benefits	64	216	387	539	672
Offsetting increases in Federal income maintenance payments	8	28	49	67	83
Net savings in Federal outlays	56	188	338	472	589
Workers without dependents benefits:					
Savings in DI benefits	8	28	52	76	101
Offsetting increases in Federal income maintenance payments	3	11	18	26	30
Net savings in Federal outlays	5	17	34	50	71
Total: All workers:					
Total savings in DI benefits	72	244	439	615	773
Total increases in Federal income maintenance payments	11	39	67	93	113
Net savings in Federal outlays	61	205	372	522	660

The estimate assumes that 150,000 disabled workers with dependents would be awarded benefits in 1980 and that the number of new awards for this category of workers would decline slightly each year, reflecting the general decline in family size. The savings in benefits were applied to each cohort of new awards and adjustments were made for subsequent terminations in family benefits due to various factors—death, aging of children, recovery.

The estimates given do not assume any change in beneficiaries as a result of the reduction in benefits. Based on past experience, however, one could expect some reduction in the number of disabled workers applying for benefits. A CBO study indicates that a 1 percent reduction in benefits has been associated with a 0.85 percent reduction in beneficiaries. Allowing for this factor could lead to an additional reduction in DI outlays of $200 to $400 million by 1984.

Sections 6 and 7—Expansion of Trial Work Period and Elimination of Requirement that Months in Medicare Waiting Period Be Consecutive

These provisions extend the trial work period for disabled workers by an additional 12 months for a total of 24 months. Although cash benefits will still be terminated after the first 12 months as under current law, medicare coverage will be extended for three more years to those who continue to work beyond the first 12 month period. In addition, the provisions grant immediate resumption of medicare coverage (no 24 months waiting period) for those who return to the rolls after a period of time off the rolls.

These provisions are expected to have a negligible effect on cash benefit payments to disabled workers, although they will result in added costs to the medicare hospital insurance (HI) and supplementary medical insurance (SMI) programs. Based on an enactment date of October 1, 1980, benefits in these programs are estimated to increase as follows:

	Millions
HI:	
Fiscal year:	
1980	11.0
1981	37.8
1982	60.6
1983	66.6
1984	73.1
SI:	
Fiscal year:	
1980	7.1
1981	24.5
1982	39.3
1983	43.1
1984	47.3

Medicare costs increase partly because of the expanded entitlement to medicare for those who would normally terminate benefits after their original 12 month trial work period. Based on recent data on the number of workers leaving the rolls after completing a trial work period it is estimated that 20,000 workers would leave the rolls in fiscal year 1980 and become eligible for extended medicare benefits at an estimated average annual cost to $880 in HI and $570 in SMI per eligible disabled worker. These average costs are expected to increase by 9 percent a year.

The remainder of medicare cost increases are incurred because those who normally return to the rolls after a period off the rolls will have

their medicare benefits reinstated without a waiting period. About 40,000 workers are estimated to terminate DI benefits in 1980 (based on recent experience) for reasons other than completion of the trial work period (such as recovery) : Of this group an estimated 5,000 persons are expected to return to the rolls within the year, thereby becoming eligible for resumption of medicare.

With respect to the effect of these provisions on DI cash benefit payments, some workers may be encouraged to work beyond the first 12 month trial period because of the continued medicare coverage and this would ultimately produce savings. On the other hand, some workers may find it easier to return to the rolls because of the elimination of the waiting period and this would increase costs. These incentive effects, however, are expected to have only a minimal net effect on the number of disabled worker beneficiaries.

Section 8.—Disability Determinations, Federal Review of State Agency Allowances

This section directs the Secretary of Health, Education and Welfare to expand the preadjudicative review of all initial disability allowances. This review is to be 15 percent in fiscal year 1980, 35 percent in 1981, and 65 percent in 1982.

The estimate of the net savings resulting from this provision is based on the methodology developed in a June 1978 study by CBO. This study used data on the gross percentages of initial state allowances returned by BDI to the states and the percentage of those subsequently denied, contained in the print, "Disability Insurance Program, 1978," Social Security Subcommittee of the Committee on Ways and Means, February 1978. From a 6 month review of 6,299 Title II initial disability allowances, 23.6 percent were returned to the states and 22.1 percent of these were denied. Using these two percentages, the number of initial allowances denied can be estimated. Allowances were made in the estimate for the man year costs of implementation, inflation and for normal deterioration from the DI rolls. Individuals who are denied DI benefits also lose the medicare benefits to which they would have been entitled after a two year waiting period.

Estimated savings to the DI as well as the hospital insurance and supplementary medical insurance trust funds are as follows:

	Millions
DI cash benefits:	
Fiscal year:	
1980	—$8
1981	—35
1982	—99
1983	—199
1984	—301
HI benefits:	
Fiscal year:	
1980	0
1981	0
1982	—2
1983	—8
1984	—26
SMI benefits:	
Fiscal year:	
1980	0
1981	0
1982	—1
1983	—5
1984	—17

Section 9.—Information to Accompany Secretary's Decisions as to Claimants' Rights

This section requires the Secretary of HEW to provide a detailed explanation to an applicant denied a disability award of the reasons for the denial, and a shorter notice to those whose awards are allowed. Taken literally, to provide each applicant a ". . . list of the evidence of record and a summary of the evidence . . ." in an understandable form could require a considerable effort. The administration estimates that increased manpower needs to implement this provision only for DI determinations would cost as follows:

DI:

Fiscal year:	*Millions*
1980	$19
1981	20
1982	21
1983	22
1984	23

CBO agrees that a lengthy response to each applicant could add these amounts to costs. If this provision is not interpreted to mean that brief letters must also be sent to all DI allowances, approximately 20 percent would be saved from these costs. If, in addition, OASI applicants are also to receive this information, then there would be considerable cost to the OASI trust fund. It should be pointed out however, that if this provision were interpreted by the Administration to require only a brief note to the denied DI applicant, then these costs could fall by one-half or more.

Section 13.—Vocational Rehabilitation Services for Disabled Individuals

This provision would grant state vocational rehabilitation agencies payments for having rehabilitated a disabled recipient only if that recipient has been successfully returned to work.

The provision is meant to be an incentive for states to encourage rehabilitation, since very few DI recipients currently are terminated for this reason. This section is effective as of the start of fiscal year 1981. Savings from this provision represent most of the costs now being paid to the states under current law for rehabilitation services and are estimated to be as follows:

DI:

Fiscal year:	*Millions*
1980	0
1981	−$118
1982	−129
1983	−141
1984	−154

Section 17—Periodic Review of Continuing Disability Cases

This section requires all non-permanent continuing disability cases to be reviewed every three years. In the middle of 1977, a 100 percent yearly review (since reduced to 50 percent) was instituted of all continuances of "diaried" cases where recovery seemed probable. It is unclear if many (or most) of these cases are identical to those to be deemed non-permanent, but it allows a way to estimate a probable savings from this provision (although there is no current formal definition of a non-permanent DI case). The current review is believed to

be partially responsible for the .8 percent increase in terminations since 1976 (about 20,000 cases). If one-half of these terminations were due to this continuing disability review, then by 1982 a total of 10,000 cases would have been terminated which might not have been. Manpower costs are based on Administration estimates of their potential needs to review the additional cases. Assuming an equal implementation over the three year period in which all cases must be reviewed, the five year, costs or savings to DI, HI and SMI are estimated as follows:

	Millions
DI:	
Fiscal year:	
1980	$23
1981	16
1982	−1
1983	−22
1984	−42
HI:	
Fiscal year:	
1980	−2
1981	−5
1982	−9
1983	−14
1984	−19
SMI:	
Fiscal year:	
1980	−1
1981	−3
1982	−6
1983	−9
1984	−12

This section can also be interpreted as directing the social security administration to formalize the type of review they are already doing. If that is the case, and the intent of the provision, there conceivably could be no costs or savings to the provision.

OTHER SECTIONS

The remaining sections of the bill have only minor costs. The provisions to allow disabled workers to deduct impairment related work expenses from earnings in determining substantial gainful activity (section 5) accounts for most of the cost in this group. Other provisions direct the Department of Health, Education and Welfare to pay for certain travel expenses, conduct a number of demonstration projects and to pay for or collect costs of other minor services. These total costs are shown below.

	Millions
DI:	
Fiscal year:	
1980	$21
1981	24
1982	27
1983	31
1984	35

7. Estimate comparison: None.

8. Previous CBO estimates: H.R. 2054, as reported to the full committee on March 20, 1979.

9. Estimate prepared by: Stephen Chaikind; June O'Neill.

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum, Assistant Director for Budget Analysis).

VI. 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):

SOCIAL SECURITY ACT

* * * * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

* * * * * * *

FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND

SECTION 201. (a) * * *

* * * * * * *

(j) Expenditures made for experiments and demonstration projects under section 4 of the Disability Insurance Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.

(k) There are authorized to be made available for expenditure, out out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in conneciton with disability determinations under section 221, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to such determinations. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.

OLD-AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old-Age Insurance Benefits

SEC. 202. (a) * * *

* * * * * * *

Child's Insurance Benefits

(d)(1) Every child (as defined in section 216(e)) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual if such child—

(A) * * *

* * * * * * *

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22, the later of (i) the third month following the month in which he ceases to be under such disability [or (if later)] *(or, if later, and subject to section 223(e), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A))*, *or* (*ii*) the earlier of—

([(i)] *(I)* the first month during no part of which he is a full-time student, or

[(ii)] *(II)* the month in which he attains the age of 22, but only if he was not under a disability (as so defined) in such earlier month.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, of for such later month, entitled to old-age insurance benefits or unless he dies in such month. No payment under this paragraph may be made to a child who would not meet the definition of disability in section 223(d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.

* * * * * * *

Widow's Insurance Benefits

(e)(1) The widow (as defined in section 216(c)) and every surviving divorced wife (as defined in section 216(d)) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

(A) is not married,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph (5),

(C)(i) has filed application for widow's insurance benefits, or was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 65, and

(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of such deceased individual, shall be entitled to a widow's insurance benefit for each month, beginning with—

(E) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

(F) if she satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph (6)) in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of such deceased individual, or, if she became entitled to such benefits before she attained age 60, the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month) *or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222 (c)(4)(A).*

* * * * * * *

Widower's Insurance Benefits

(f)(1) The widower (as defined in section 216(g)) of an individual who died a fully insured individual, if such widower—

(A) has not remarried,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph (6),

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of his deceased wife,

shall be entitled to a widower's insurance benefit for each month, beginning with—

(E) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

(F) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph (7)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (6) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of his deceased wife, or, if he became entitled to such benefits before he attained age 60, the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month) *or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).*

* * * * * * *

Application for Monthly Insurance Benefits

(j)(1) * * *

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application *(and shall be deemed to have been filed in such first month) only if the applicant* satisfies the requirements for such benefits before the Secretary makes a final decision on the application[. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month], *and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).*

REDUCTION OF INSURANCE BENEFITS

Maximum Benefits

SEC. 203. (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)] *paragraphs 3 and 6* (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).

(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 disability 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] *(8)* 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).

* * * * * * *

(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits (whether or not such total benefits are otherwise subject to reduction under this subsection but in lieu of any reduction under this subsection which would otherwise

be applicable) shall be reduced (before the application of section 224) to the smaller of—

(A) 80 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

(B) 150 percent of such individual's primary insurance amount.

[(6)] *(7)* 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 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.

[(7)] *(8)* Subject to paragraph [(6)] *(7)* 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.

[(8)] *(9)* 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.

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) * * *

(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this

title. *Any such decision by the Secretary shall contain a statement of the case setting forth (1) a citation and discussion of the pertinent law and regulation, (2) a list of the evidence of record and a summary of the evidence, and (3) the Secretary's determination and the reason or reasons upon which it is based.* Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

* * * * * * *

(g) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) hereof which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) hereof, the court shall review only the question of conformity with such regulations and the validity of such regulations. [The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary.] *The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for*

further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both; and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it is shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 215. For the purposes of this title—

(a)(1)(A) * * *

* * * * * * *

(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.]

(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence in this subparagraph), or who has died, by 5 years, and

(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount after his attainment of age 65 or any subsequent eligibility for disability insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit. If an individual described in clause (ii) is determined in accordance with regulations of the Secretary to have been responsble for providing (and to have provided) the principal care of a child (of such individual or his or her spouse) under the age of 6 throughout more than 6 full months in any calendar year which is

included in such individual's elapsed years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 5) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual provided such care throughout more than 6 full garded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the smallest, and (III) this sentence shall apply only to the extent that its application would result in a higher primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.

* * * * * * *

Cost-of-Living Increases in Benefits

(i) (1) For purposes of this subsection—
(A) * * *

* * * * * * *

(2) (A) (i) The Secretary shall determine each year beginning with 1975 (subject to the limitation in paragraph (1) (B)) whether the base quarter (as defined in paragraph (1) (A) (i)) in such year is a cost-of-living computation quarter.

(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—

(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) *and (8)* as in effect after December 1978.

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)).

* * * * * * *

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter, a determination that a benefit increase is resultantly required and the percentage thereof. 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)). *Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 2(a)(3) of the Disability Insurance Amendments of 1979).*

* * * * * * *

OTHER DEFINITIONS

SEC. 216. For the purposes of this title—

(a) * * *

* * * * * * *

Disability; Period of Disability

(i)(1) * * *

(2)(A) * * *

* * * * * * *

(G) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application (*and shall be deemed to have been filed on such first day*) only if the applicant satisfies the requirements for a period of disability before the Secretary makes a final decision on the application *and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made* (*regardless of whether such decision becomes the final decision of the Secretary*). [If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed on such first day.]

* * * * * * *

DISABILITY DETERMINATIONS

SEC. 221. (a)(*1*) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall [, except as provided in subsection (g), be made by a State agency pursuant to an agreement entered into under subsection (b). Except as provided in subsection (c) and (d), any such determinations shall be the determination of the Secretary for purposes of this title.] *be made by a State agency in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if* (*A*) *the Secretary has not found, under subsection* (*b*)(*1*), *that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and* (*B*) *the State has not notified the Secretary, under subsection* (*b*)(*2*), *that it does not wish to make such determinations. If the Secretary once makes the finding described in clause* (*A*) *of the preceding sentence, or the State gives the notice referred to in clause* (*B*) *of such sentence, the Secretary may thereafter determine whether* (*and, if so, beginning with which month and under what conditions*) *the State may make again disability determinations under this paragraph.*

(*2*) *The disability determinations described in paragraph* (*1*) *made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations* (*if it does not wish to do so with respect to all individuals in the State*), *and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability*

insurance program throughout the United States. The regulations may, for example, specify matters such as—

(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

(D) fiscal control procedures that the State agency may be required to adopt,

(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.

[(b) The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determination referred to in subsection (a) with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.]

(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

[(c) The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such disability began on a day later than that determined by such agency, or

that such disability ceased on a day earlier than that determined by such agency.]

(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is not under a disability (as so defined) or that such individual's disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination and before any benefits are paid on the basis thereof.

(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1980,

(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1981, and

(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1981.

(d) Any individual dissatisfied with any determination under subsection (a), (b), (c), or (g) shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(e) Each State which [has an agreement with the Secretary] *is making disability determinations under subsection (a)(1)* under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, as [may be mutually agreed upon] *determined by the Secretary*, the cost to the State of [carrying out the agreement under this section] *making disability determinations under subsection (a)(1)*. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 201 (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are attribut-

able to the administration of section 223 and the Federal Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(g) In the case of individuals in a State which [has no agreement under subsection (b)] *does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines*, in the case of individuals outside the United States, and in the case of any class or classes of individuals [not included in an agreement under subsection (b)] *for when no State undertakes to make disability determinations*, the determinations referred to in subsection (a) shall be made by the Secretary in accordance with regulations prescribed by him.

(h) In any case where an individual is or has been determined to be under a disability, unless a finding is or has been made that such disability is permanent, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.

REHABILITATION SERVICES

Referral for Rehabilitation Services

SEC. 222. (a) * * *

* * * * * * *

Period of Trial Work

(c)(1) The term "period of trial work", with respect to an individual entitled to benefits under section 223 [or 202(d),] *, 202(d), 202(e), or 202(f)*, means a period of months beginning and ending as provided in paragraphs (3) and (4).

* * * * * * *

(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 202(d) who has attained the age of eighteen, with the month in which he becomes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later, *or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.* Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following the month in which this paragraph is enacted; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

* * * * * * *

Costs of Rehabilitation Services From Trust Funds

(d) (1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

(A) entitled to disability insurance benefits under section 223, [or]

(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability), [or]

(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

(D) entitled to widower's insurance benefits under section 202 (f) prior to attaining age 60,

to the end that savings will [result] *accrue* to the Trust [Fund] *Funds* as a result of rehabilitating [the maximum number of such individuals into productive activity, there are authorized to be transferred from the Trust Funds such sums as may be necessary to enable the Secretary to pay the costs of vocational rehabilitation services for such individuals (including (i) services during their waiting periods, and (ii) so much of the expenditures for the administration of any State plan as is attributable to carrying out this subsection); except that the total amount so made available pursuant to this subsection may not exceed—

[(i) 1 percent in the fiscal year ending June 30, 1972,

[(ii) 1.25 percent in the fiscal year ending June 30, 1973,

[(iii) 1.5 percent in the fiscal year ending June 30, 1974, and thereafter,

of the total of the benefits under section 202(d) for children who have attained age 18 and are under a disability, the benefits under section 202(e) for widows and surviving divorced wives who have not attained age 60 and are under a disability, the benefits under section 202(f) for widowers who have not attained age 60, and the benefits under section 223, which were certified for payment in the preceding year. The selection of individuals (including the order in which they shall be selected) to receive such services shall be made in accordance with criteria formulated by the Secretary which are based upon the effect the provision of such services would have upon the Trust Funds.

[(2) In the case of each State which is willing to do so, such vocational rehabilitation services shall be furnished under a State plan for vocational rehabilitation services which—

[(A) has been approved under section 5 of the Vocational Rehabilitation Act,

[(B) provides that, to the extent funds provided under this subsection are adequate for the purpose, such services will be furnished, to any individual in the State who meets the criteria prescribed by the Secretary pursuant to paragraph (1), with reasonable promptness and in accordance with the order of selection determined under such criteria, and

[(C) provides that such services will be furnished to any individual without regard to (i) his citizenship or place of residence, (ii) his need for financial assistance except as provided in regulations of the Secretary in the case of maintenance during rehabilitation, or (iii) any order of selection which would otherwise be

followed under the State plan pursuant to section 5(a)(4) of the Vocational Rehabilitation Act.

[(3) In the case of any State which does not have a plan which meets the requirements of paragraph (2), the Secretary may provide such services by agreement or contract with other public or private agencies, organizations, institutions, or individuals.

[(4) Payments under this subsection may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

[(5) Money paid from the Trust Funds under this subsection to pay the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid out from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

[(A) the total cost of the services provided under this subsection, and

[(B) subject to the provisions of the preceding sentence, the amount of such cost which should be charged to each of such Trust Funds.

[(6) For the purposes of this subsection the term "vocational rehabilitation services" shall have the meaning assigned to it in the Vocational Rehabilitation Act, except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purposes of this subsection.] *such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse—*

(i) the general fund in the Treasury of the United States for the Federal share, and

(ii) the State for twice the State share,

of the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in their performance of substantial gainful activity which lasts for a continuous period of 12 months, or which result in their employment for a continuous period of 12 months in a sheltered workshop meeting the requirements applicable to a nonprofit rehabilitation facility under paragraphs (8) and (10)(L) of section 7 of such Acts (29 U.S.C. 706 (8) and (10)(L). The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity or their employment in sheltered workshops, and the determination of the amount of costs to be reimbursed under this subsection, shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

(2) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

(3) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

(A) the total amount to be reimbursed for the cost of services under this subsection, and

(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

(4) For the purposes of this subsection the term 'vocational rehabilitation services' shall have the meaning assigned it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.

(5) The Secretary is authorized and directed to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries under this title to the end that maximum savings will result to the Trust Funds. On or before January 1, 1980, the Secretary shall transmit to the President and the Congress a report which shall contain his findings and any conclusions and recommendations he may have.

DISABILITY INSURANCE BENEFIT PAYMENTS

Disability Insurance Benefits

SEC. 223. (a) (1) Every individual who—

(A) is insured for disability insurance benefits (as determined under subsection (c)(1)),

(B) has not attained the age of sixty-five,

(C) has filed application for disability insurance benefits, and

(D) is under a disability (as defined in subsection (d))

shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined in subsection (c)(2)) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability insurance benefits which terminated, or had a period of disability (as defined in section 216(i)) which ceased, within the sixty-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, or the third month following the month in which his

disability ceases, or, *if later (and subject to subsection (e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A)*. No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 202 to any person on the basis of the wages and self-employment income of such individual. In the case of a deceased individual, the requirement of subparagraph (C) may be satisfied by an application for benefits filed with respect to such individual within 3 months after the month in which he died.

(2) Except as provided in section 202(q) *and section 215(b)(2)(A)(ii)*, such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 as though he had attained age 62, in—

(A) the first month of his waiting period, or

(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits,

and as though he had become entitled to old-age insurance benefits in the month in which the application for disability insurance benefits was filed and he was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b)) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of an individual who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 215(b)(3) shall not include the year in which he attained age 62, or any year thereafter.

Filing of Application

(b) An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a)(1)) shall be deemed a valid application *(and shall be deemed to have been filed in such first month)* only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application *and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary)*. [If, upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.] An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefor before the end of such month shall be entitled to such benefit for such month if such application is filed before the end of the 12th month immediately succeeding such month.

* * * * * * *

Definition of Disability

(d)(1) * * *

* * * * * * *

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 222(c), be found not to be disabled. 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. *In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to the individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions.*

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require. *Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.*

(e) No benefit shall be payable under section (d), (e), or (f) of section 202 or under subsection (a)(1) to an individual for any month after the third month in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).

SUSPENSION OF BENEFITS BASED ON DISABILITY

SEC. 225. (a) If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 223, or that a child who has attained the age of eighteen and is entitled to benefits under section 202(d), or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 202(e), or that a widower who has not attained age 60 and is entitled to benefits under section 202(f), may have ceased to be under a disabiltiy, the Secretary may suspend the payment of benefits under such section 202(d), 202(e), 202(f), or 223, until it is determined (as provided in section 221) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose dis-

ability is subject to determination under an agreement with a State under section 221(b), the Secretary shall promptly notify the appropriate State of his action under this [section] *subsection* and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this [section] *subsection*, the term "disability" has the meaning assigned to such term in section 223(d). Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 202, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this [section] *subsection* shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d)).

(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment on which the individual's entitlement to such benefits is based has or may have ceased if—

(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.

ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS

SEC. 226.

(a) * * *

(b) Every individual who—

(1) has not attained age 65, and

(2)(A) is entitled to, and has for 24 [consecutive] calendar months have been entitled to, (i) disability insurance benfits under section 223 or (ii) child's insurance benefits under section 202(d) by reason of a disability (as defined in section 223(d)) or (iii) widow's insurance benefits under section 202(e) or widower's insurance benfits under section 202(f) by reason of a disability (as defined in section 223(d)), or (B) is, and has been for not less than 24 [consecutive] months a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974,

shall be entitled to hospital insurance benefits under Part A of title XVIII for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth [consecutive] month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending (*subject to the last sentence of this subsection*) with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with

the month before the month in which he attains age 65. *For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.*

(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.

[(f)] *(g)* For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 103 of the Social Security Amendments of 1965.

* * * * * * *

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

* * * * * * *

PART A—HOSPITAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

DESCRIPTION OF PROGRAM

SEC. 1811. The insurance program for which entitlement is established by sections 226 and 226A provides basic protection against the costs of hospital and related post-hospital services in accordance with this part for (1) individuals who are age 65 or over and are entitled to retirement benefits under title II of this Act or under the railroad retirement system; (2) individuals under age 65 who have been entitled for not less than 24 [consecutive] months to benefits under title II of this Act or under the railroad retirement system on the basis of a disability; and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease.

* * * * * * *

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR THE AGED AND DISABLED

* * * * * * *

ENROLLMENT PERIODS

SEC. 1837. (a) * * *

* * * * * * *

(g) All of the provisions of this section shall apply to indiviuals satisfying subsection (f), except that—

(1) in the case of an individual who satisfies subsection (f) by reason of entitlement to disability insurance benefits described in section 226(a)(2)(B), his initial enrollment period shall begin on the first day of the later of (A) April 1973 or (B) the third month before the 25th [consecutive] month of such entitlement, and shall reoccur with each continuous period of eligibility (as defined in section 1839(c)) and upon attainment of age 65;

(2)(A) in the case of an individual who is entitled to monthly benefits under section 202 or 223 on the first day of his initial enrollment period or becomes entitled to monthly benefits under section 202 during the first 3 months of such period, his enrollment shall be deemed to have occurred in the third month of his initial enrollment period, and

(B) in the case of an individual who is not entitled to benefits under section 202 on the first day of his initial enrollment period and does not become so entitled during the first 3 months of such period, his enrollment shall be deemed to have occurred in the month in which he files the application establishing his entitlement to hospital insurance benefits provided such filing occurs during the last 4 months of his initial enrollment period; and

(3) in the case of an individual who would otherwise satisfy subsection (f) but does not establish his entitlement to hospital insurance benefits until after the last day of his initial enrollment period (as defined in subsection (d) of this section), his enrollment shall be deemed to have occurred on the first day of the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section).

* * * * * * *

SECTION 7 OF THE RAILROAD RETIREMENT ACT

POWERS AND DUTIES OF THE BOARD

SEC. 7 (a) * * *

* * * * * * *

(d)(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, posthospital extended care services, posthospital home health services, and out-

patient hospital diagnostic services (all hereinafter referred to as "services") under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 8, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

(2) Except as otherwise provided in this subsection, every person who—

(i) has attained age 65 and (A) is entitled to an annuity under this Act or (B) would be entitled to such an annuity had he ceased compensated service and, in the case of a spouse, had such spouse's husband or wife ceased compensated service; or

(ii) has not attained age 65 and (A) has been entitled to an annuity under section 2 of this Act, or under the Railroad Retirement Act of 1937 and section 2 of this Act, or could have been includible in the computation of an annuity under section 3(f)(3) of this Act, for not less than 24 [consecutive] months and (B) could have been entitled for 24 [consecutive] calendar months, and could currently be entitled, to monthly insurance benefits under section 223 of the Social Security Act or under section 202 of that Act on the basis of disability if service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act and if an application for disability benefits had been filed,

shall be certified to the Secretary of Health, Education, and Welfare as a qualified railroad retirement beneficiary under section 226 of the Social Security Act.

* * * * * * *

VII. Additional Views of Hon. Sam M. Gibbons, Richard A. Gephardt, Cec Heftel, Bill Frenzel, Jim Martin, and John H. Rousselot to H.R. 3236, The Disability Insurance Amendments of 1979

When H.R. 3236, the Disability Insurance Amendments of 1979, was considered in the Committee on Ways and Means, I offered a simple amendment to section 2 that would limit total disability insurance (DI) family benefits for future beneficiaries to 130 percent of a worker's insurance amount. We believe this is a level at which a worker and his or her family would be adequately protected during the period of disability while still providing that worker an incentive to return to work at his or her normal (higher) rate of pay. The committee bill would limit this to 150 percent of a worker's insurance amount.

Under the committee bill, a worker who becomes disabled under the Social Security System is entitled to benefits which are computed on the basis of the smaller of the worker's average indexed monthly earnings (AIME) or the worker's primary benefits (PIA), that is the insurance amount. My amendment would place the limit at the smaller of 80 percent of a worker's AIME or 130 percent of the worker's PIA (80/130). The Subcommittee on Social Security proposed instead a total DI family benefit limit of 80/150. Unfortunately, we fell 2 votes short when the amendment was considered and defeated by a vote of 14 yeas to 16 nays. It is obvious that the committee is fairly well split on this issue and that is why the undersigned Members offer these additional views.

Liberal disability benefits induce both an increase in the number of cases approved and the prolongation of disability. From a social and humanistic point of view, we are presented with a dilemma, namely, how we can provide adequate benefits to those unfortunate individuals who become and remain truly disabled, without removing or greatly reducing the incentive to overcome the disability and return to work. From a taxpayer's point of view, rising payroll taxes are and have been necessary to keep solvent the troubled disability insurance system, which includes excessive disability benefits for high-income families, particularly two-earner families.

For example, if a man and his wife with one child each earn $12,000, their net income is $16,600. If one of them should become disabled and one continues to work, under current law their net income will be $16,700. The committee bill would not change that result. Thus, there is an economic disincentive not to return to work. I think this result should be changed if our disability insurance system is going to survive. My sense of justice requires that when disabled workers return to work, their family income should increase. Accordingly, my amendment to change the earnings replacement ratio to 80/130 would provide this couple with $15,700 net income, or an economic incentive to return to work of $1,000.

As table I of the following tables indicates, our amendment would provide greater economic incentives to disabiltiy recipients at all wage levels above $5,000. Its primary effect would be on high income families. A person earning $5,750 would lose $4.43 per year or $8.53 per week relative to the committee bill; a person earning $16,000 would lose $1,232 per year or $23.70 per week. For maledisabled workers in two-earner families, the percent of workers with over 90 percent replacement rates would be reduced to 35 percent from 67 percent of all present DI beneficiaries. See table II. Many of these workers have spouses who can work. Furthermore, while the amendment only affects families with children, the proposal does not eliminate dependents benefits. Lower income workers who become disabled many still receive support from SSI, AFDC, food stamps, school lunch and other child nutrition programs, housing programs, education porgrams, medicare, medicaid, the medically needy program, worker's compensation, veterans benefits, black lung benefits, and civil service to name a few.

The point is, all of the income maintenance concerns of low income workers should not be solved by social insurance programs like DI. We should not set DI benefit levels as if this was the family's only means of support. Social security was never intended by either liberals or conservatives to provide over 80, 90, or even over 100 percent of predisability benefits. But as table IV indicates, under current law some two-earner families may stand to make more drawing disability than they did before becoming disabled or would after they return to work. Unfortunately, the committee bill allows this to continue in some instances.

We submit that the proposed amendment solves the social and humanistic dilemma faced by those of us who are concerned about the DI system. It also goes further than the committee's bill in answering the taxpayer's legitimate complaint that the payroll tax rates have risen too high and must be rolled back.

It is estimated by both Social Security actuaries and the Congressional Budget Office that utilizing an 80/130 formula would save an additional 430 million per year by 1984 relative to the committee bill. In the 4-year period from 1981 to 1984, we could save $1 to $1.2 billion. Such savings help to balance the Federal budget. They can also be passed on to high- and low-income workers in terms of greater rollback in the payroll tax rate when social security/DI financing is considered late this year or early next year.

Time may be running out on the disability insurance system and our taxpayer's willingness to support it. We think the time for decision is now.

Respectfully submitted.

SAM M. GIBBONS.
RICHARD A. GEPHARDT.
CEC HEFTEL.
BILL FRENZEL.
JIM MARTIN.
JOHN H. ROUSSELOT.

TABLE I.—IMPACT OF BENEFIT LIMIT PROPOSALS AT VARIOUS BENEFICIARY LEVELS

[Benefit amount—disabled worker and 2 dependents, 1980]

Annual indexed earnings	Current law	80 percent of AIME administration proposal (H.R. 2854)	80 percent of AIME or 150 percent of PIA (H.R. 3236)	80 percent of AIME or 130 percent of PIA	Amount of reduction relative to committee bill
1, 750	2, 363	1, 576	1, 576	1, 576	0
4, 250	4, 077	3, 400	3, 400	3, 400	0
5, 750	5, 039	4, 600	4, 600	4, 157	443
7, 500	6, 560	6, 000	5, 636	4, 884	752
9, 250	8, 084	7, 400	6, 476	5, 613	863
10, 900	8, 795	8, 720	7, 268	6, 299	969
12, 650	9, 546	9, 546	8, 109	7, 028	1, 081
14, 250	10, 309	10, 309	8, 845	7, 666	1, 179
16, 000	10, 776	10, 776	9, 238	8, 006	1, 232

TABLE II.—ESTIMATED DISTRIBUTION OF DISABLED WORKERS WITH DEPENDENTS' BENEFITS BY RATIO OF POST-DISABILITY INCOME TO PREDISABILITY OISPOSABLE INCOME UNOER VARIOUS PROPOSALS

	Estimated number of OI awards (thousands)	Postdisability disposable income as a percent of predisability disposable income [1]			
		Below 90	90 to 100	Above 100	Total
Male Disabled Worker, 2-earner family	54. 9				
Current law		4	32	64	100
Committee bill		33	46	22	100
80/150		65	25	10	100
Male disabled worker, 1-earner family	55. 5				
Current law		21	65	14	100
Committee bill		74	17	8	100
80/150		78	14	8	100
Female disabled worker, 2-earner family	25. 5				
Current law		0	6	94	100
Committee bill		2	32	66	100
80/150		8	40	52	100

[1] Predisability disposable income is the sum of average wage indexed earnings of worker (since 1951 or age 21), earnings of spouse preceding disability and property income preceding disability, less estimated taxes and work expenses. Estimate of income maintenance payments was added to obtain total disposable income.

Postdisability income is the sum of spouse earnings after disability and estimated property income, less estimated taxes and work expenses. Estimate of means-tested income maintenance payments was added to obtain total disposable income. Payments from private or governmental pensions, veterans' benefits, and workmen's compensation are not included. Post and predisability income were both indexed to same year for calculating ratios.

Source: Based on sample DI awards between 1973 and 1976 merged with longitudinal earners histories and SSA and census data on worker characteristics and income sources.

TABLE III.—*Examples of economic incentives to return to work*

Example 1—Man, wife each earning $12,000—with 1 child:	
Net income prior to disability	$16, 600
Net income if one becomes disabled and one continues to work	16, 700
Net income under subcommittee bill	16, 700
Economic incentive to return to former job	−100
Economic incentive to take a job earning $6,000 a year	−3, 500
Net income under 80/130	15, 700
Economic incentive to return to former job	1, 000
Example 2—Man earning $12,000, wife earning $6,000—with 2 children:	
Net income prior to disability	$13, 400
Net income if male becomes disabled, female continues to work (current law)	14, 200
Net income under subcommittee bill	12, 800
Economic incentive to return to work	600
Net income under 80/130	11, 900
Economic incentive to return to work	1, 500
Example 3—One earner, spouse and child where earner earns $10,000:	
Net income prior to disability	$8, 000
Net income when earner becomes disabled (current law)	7, 900
Net income under subcommittee bill	6, 500
Economic incentive to return to work	1, 500
Net income under 80/130	5, 600
Economic incentive to return to work	2, 200

TABLE IV.—POSTDISABILITY DISPOSABLE INCOME AS A PERCENT OF PREDISABILITY DISPOSABLE INCOME UNDER VARIOUS WAYS OF LIMITING FAMILY BENEFITS FOR DISABLED WORKER BENEFICIARIES WITH DEPENDENTS

	Current law	80 percent of AIME/150 percent of PIA	80 percent of AIME/130 percent of PIA
Male disabled worker family:			
1 earner	94	85	78
2 earner	103	93	87
Average	98	89	83
Female disabled worker family:			
1 earner	96	93	91
2 earner	109	101	99
Average	104	98	96

Source: CBO simulation of persons awarded benefits in 1980 based on a sample of awards from 1973–76.

TABLE V.—IMPACT OF BENEFIT LIMIT PROPOSALS AT VARIOUS EARNINGS LEVELS INCLUDING WELFARE[1]

Earnings	Predisability disposable income	Postdisability disposable income		
		Current law	H.R. 3236	80/130
$2,000	$3,423	$6,048	$6,048	$6,048
$4,000	4,884	6,048	6,048	6,048
$6,000	5,923	5,588	5,276	4,865
$8,000	6,666	6,734	5,945	5,426
$10,000	7,966	7,931	6,493	5,986

[1] Welfare programs included in this analysis are AFDC, SSI, and food stamps.

VIII. Supplemental Views of Hon. Richard A. Gephardt and Hon. Cec Heftel on H.R. 3236, the Disability Insurance Amendments of 1979

While we are very supportive of the basic provisions of H.R. 3236 to reduce program costs and improve work incentives for beneficiaries, there is one area of improvement which has not been included in the bill. Briefings on H.R. 3236 for members of the House Ways and Means Committee brought to light the fact that disability insurance was provided on the basis of not just medical disability but also utilizing vocational factors such as age, education and work experience. This produces higher costs for the program and greater ambiguity in determining who should become a beneficiary. We will be undermining the credibility and financial stability of the system if we provide benefits at levels for which the people or government are unwilling to pay.

A great step forward can be made in terms of fiscal responsibility by using only medical factors for determining disability for insurance applicants under 55 years of age, while continuing to use medical and vocational factors for persons 55 years of age and over. This proposed amendment would only affect cases occurring in the future and would have no impact on cases which have been decided in the past. For individuals under 55 who would be denied disability benefits because medical evidence was insufficient, existing social programs would be available to provide assistance. When offered during full committee markup, this amendment failed by just one vote (13 nays to 12 ayes). There is obvious committee support for this proposal and it will be offered again on the House floor.

The amendment would result in savings to the system in excess of $500 million per year by 1984. That sum becomes significant as a part of an overall effort to make social security once again solvent. The administration of the disability program would be further streamlined by the reduction in the number of cases in which vocational factors must be considered. Currently, a disproportionate percentage of cases reaching the hearings and appeals stages involve the consideration of vocational factors. New benefit awards could be expected to be cut by approximately 5 percent with this change.

The trend in recent years toward less reliance on vocational factors has been encouraging, but the proposed amendment is necessary to assure that benefits awarded be appropriate under the original intent of the disability program. In conclusion, we hope to take every step possible toward restoring confidence in the stability and credibility of the Social Security system.

Respectfully submitted.

Richard A. Gephardt.
Cec Heftel.

○

Union Calendar No. 41

96TH CONGRESS
1ST SESSION

H. R. 3236

[Report No 96–100]

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1979

Mr. PICKLE (for himself, Mr. ARCHER, Mr. JACOBS, Mr. COTTER, Mr. GEPHARDT, Mr. MIKVA, Mr. FISHER, Mr. GRADISON, and Mr. ROUSSELOT) introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 23, 1979

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 title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

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 "Disability Insurance Amendments of 1979".

TABLE OF CONTENTS

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 2. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection *other than paragraphs (3)(A), (3)(C), and (5)* (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits (whether or not such total benefits are otherwise subject to reduction under this subsection but in lieu of any reduction under this subsection which would otherwise be applicable) shall be reduced (before the application of section 224) to the smaller of—

"(A) 80 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 150 percent of such individual's primary insurance amount.".

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a) (6) and (7)" and inserting in lieu thereof "section 203(a) (7) and (8)".

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 2(a)(3) of the Disability Insurance Amendments of 1979).".

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial eligibility for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) begins after 1978, and whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins after 1979.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 3. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits ~~or who has died~~ (except as

provided in the second sentence of this subparagraph), *or who has died,* by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount after his ~~death or~~ attainment of age 65 or any subsequent eligibility for disability insurance benefits unless prior to the month in which ~~he dies, attains such age, or~~ *he attains such age or* becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit. If an individual described in clause (ii) is determined in accordance with regulations of the Secretary to have been responsible for providing (and to have provided) the principal care of a child (of such individual or his or her spouse) under the age of 6 throughout more than 6 full months in any calendar year which is included in such individual's elapsed years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the

number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 5) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual provided such care throughout more than 6 full months in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the smallest, and (III) this sentence shall apply only to the extent that its application would result in a higher primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.".

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins on or after

January 1, 1980; except that the third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months after December 1980.

WORK INCENTIVE—SGA DEMONSTRATION PROJECT

SEC. 4. (a) The Commissioner of Social Security shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries to the end that savings will accrue to the Trust Funds.

(b) The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any prospective system either locally or nationally.

(c) In the case of any experiment or demonstration project under subsection (a), the Secretary may waive compliance

with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner of Social Security to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) The Commissioner of Social Security shall submit to the Congress no later than January 1, 1983, a final report on the experiments and demonstration projects carried out under this section together with any related data and materials which he may consider appropriate.

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

"(j) Expenditures made for experiments and demonstration projects under section 4 of the Disability Insurance

Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 5. Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to the individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions.".

PROVISION OF TRIAL WORK PERIOD FOR DISABLED WIDOWS AND WIDOWERS; EXTENSION OF ENTITLEMENT TO DISABILITY INSURANCE AND RELATED BENEFITS

SEC. 6. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or ~~202(f),".~~ *202(f)*".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(3) The amendments made by this subsection shall apply with respect to individuals whose disability has not been determined to have ceased prior to the date of the enactment of this Act.

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof "or, if later (and subject to subsection (e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(B) Section 202(d)(1)(G) of such Act is amended by—

(i) by redesignating clauses (i) and (ii) as clauses (I) and (II), respectively,

(ii) by inserting "the later of (i)" immediately before "the third month", and

(iii) by striking out "or (if later)" and inserting in lieu thereof the following: "(or, if later, and subject to section 223(e), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A)), or (ii)".

(C) Section 202(e)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(D) Section 202(f)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"(e) No benefit shall be payable under subsection (d), (e), or (f) of section 202 or under subsection (a)(1) to an individual for any month after the third month in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).".

(3) Section 226(b) of such Act is amended—

(A) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month" and

(B) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.".

(4) The amendments made by this subsection shall apply with respect to individuals whose disability or blindness (whichever may be applicable) has not been determined to have ceased prior to the date of the enactment of this Act.

ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

SEC. 7. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which

an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for months after the month in which this Act is enacted.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY ALLOWANCES

SEC. 8. (a) Section 221(a) of the Social Security Act is amended to read as follows:

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may make again disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt,

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

"(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.".

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary

shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).".

(c) Section 221(c) of such Act is amended to read as follows:

"(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is not under a disability (as so defined) or that such individual's disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination and before any benefits are paid on the basis thereof.

"(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least ~~30 percent~~ *15 percent* of all such determinations made by State agencies in the fiscal year 1980,

"(B) at least ~~60 percent~~ *35 percent* of all such determinations made by State agencies in the fiscal year 1981, and

"(C) at least ~~80 percent~~ *65 percent* of all such determinations made by State agencies in any fiscal year after the fiscal year 1981.".

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of

continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

(h) The Secretary of Health, Education, and Welfare shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate by January 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the plan for action by such committees, or for submittal by such committees with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 9. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following

new sentences: "Any such decision by the Secretary shall contain a statement of the case setting forth (1) a citation and discussion of the pertinent law and regulation, (2) a list of the evidence of record and a summary of the evidence, and (3) the Secretary's determination and the reason or reasons upon which it is based. ~~The statement of the case shall not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant shall be informed of its existence, and it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.~~".

(b) The amendment made by subsection (a) shall apply with respect to decisions made on and after the first day of the second month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 10. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the require-

ments for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).".

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 11. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;".

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 12. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than January 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review

(whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

VOCATIONAL REHABILITATION SERVICES FOR DISABLED INDIVIDUALS

SEC. 13. (a) Section 222(d) of the Social Security Act is amended to read as follows:

"Costs of Rehabilitation Services From Trust Funds

"(d)(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse—

"(i) the general fund in the Treasury of the United States for the Federal share, and

"(ii) the State for twice the State share,

of the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in their performance of substantial gainful activity which lasts for a continuous period of 12 months, or which result in their employment for a continuous period of 12 months in a sheltered workshop meeting the requirements applicable to a nonprofit rehabilitation facility under paragraphs (8) and (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and (10)(L)). The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity or their employment in sheltered workshops, and the determination of the amount of

costs to be reimbursed under this subsection, shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

"(2) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

"(3) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

"(A) the total amount to be reimbursed for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(4) For the purposes of this subsection the term 'vocational rehabilitation services' shall have the meaning assigned

it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.

"(5) The Secretary is authorized and directed to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries under this title to the end that maximum savings will result to the Trust Funds. On or before January 1, 1980, the Secretary shall transmit to the President and the Congress a report which shall contain his findings and any conclusions and recommendations he may have.".

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1980.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 14. (a) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental im-

pairment on which the individual's entitlement to such benefits is based has or may have ceased if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(b) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 15. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.".

(b) The amendment made by subsection (a) shall apply with respect to evidence supplied on or after the date of the enactment of this Act.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 16. Section 201 of the Social Security Act (as amended by section 4(e) of this Act) is amended by adding at the end thereof the following new subsection:

"(k) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under section 221, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to such determinations. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailabil-

ity of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 17. Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) In any case where an individual is or has been determined to be under a disability, unless a finding is or has been made that such disability is permanent, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.".

Union Calendar No. 41

96TH CONGRESS
1ST SESSION

H. R. 3236

[Report No. 96–100]

A BILL

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

MARCH 27, 1979

Referred to the Committee on Ways and Means

APRIL 23, 1979

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

LEGISLATIVE REPORT

SOCIAL SECURITY ADMINISTRATION

Number 1 June 11, 1979

STATUS OF SSA-RELATED LEGISLATION

House Action on Disability Legislation

On June 7, the House Committee on Rules voted to grant a rule for debate on H.R. 3236, a bill to modify the social security disability cash benefits program. The bill, which was reported on April 23 by the Committee on Ways and Means, is now awaiting House debate.

On June 6, the House passed, as reported by the Ways and Means Committee, H.R. 3464, the SSI-disability bill. The bill now goes to the Senate for its consideration.

The bills contain many of the Administration's proposals to improve the social security and SSI disability programs. The Administration's recommendations are designed to:

- limit future benefits for families of social security disability beneficiaries
- remove disincentives for the disabled to return to work, and
- improve the disability adjudicative process.

Attached are summaries and brief discussions of the bills and estimates of the cost effects of their provisions.

Draft "Social Security Amendments of 1979" Sent to the Congress

On April 13, Secretary Califano sent the Administration's OASI proposals to the Congress. One of the main purposes of the proposals is to put greater emphasis on the basic objectives of the social security program and to further limit or phase out some less essential parts of the program. Other parts of the draft bill are intended to simplify administration and improve public understanding of the program, eliminate gender-based distinctions from title II of the Social Security Act, and make various other improvements in the program. The congressional committees may not take up the 1979 amendments until after action on the disability bill is completed.

Attached are Secretary Califano's letter to the Speaker of the House and a sectional summary of the bill.

AFDC-Related Legislation Reported by Ways and Means Committee

On May 10, the Ways and Means Committee reported a combined child welfare and social services bill (H.R. 3434).

The bill is similar in most respects to the Administration's proposals in these areas. A summary of the bill and cost estimates are attached.

"Social Welfare Reform Amendments of 1979" Introduced in the Congress

On June 5, Secretary Califano sent the Administration's draft "Social Welfare Reform Amendments of 1979" to the Congress. It was introduced in the House on June 5 by Representative Corman (H.R. 4321) and in the Senate on June 6 by Senator Moynihan (S. 1290). The proposal represents welfare reform initiatives that are designed to improve benefit standards, broaden eligibility, provide emergency assistance, cashout food stamps for some SSI recipients, and improve State program administration. A companion welfare reform proposal, the "Work and Training Opportunities Act of 1979," is designed to improve job opportunities for welfare and low-income families. It would be administered by the Department of Labor.

Attached are Secretary Califano's transmittal letter, a sectional summary, and cost estimates of the effects of the Social Welfare Reform Amendments.

I will send Legislative Reports of subsequent actions as new developments occur.

Stanford G. Ross
Commissioner

Attachments 11

H.R. 3236 AS REPORTED BY THE WAYS AND MEANS COMMITTEE

Limit Total Family Benefits in Disability Cases

In the case of disabled workers who become entitled to disability insurance benefits in the future, maximum family benefits for any month would be limited to 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of primary insurance amount (PIA), whichever is lower (but with a minimum guarantee of 100 percent of the PIA).

This provision would apply only to workers who become disabled after 1978 and whose initial entitlement to disability benefits begins after 1979. (Where the first month for which the worker received a disability benefit is December 1979 or earlier, the present law family maximum provisions generally would apply.)

Replacement rates (benefits as a percent of the earnings on which they are based), as shown below, can be very high for families of some disabled workers under present law. The payment of benefits that equal or exceed what a person can earn may encourage impaired people to claim disability benefits and discourage beneficiaries from seeking vocational rehabilitation or trying to return to work.

Family Benefit Replacement Rates

AIME	Present Law	H.R. 3236
$ 135	135%	90%
300	105	80
700	87	72
1,100	74	63
1,500	63	54

Reduce Number of Dropout Years for Younger Disabled Workers

The number of years of low earnings that a disabled worker can eliminate ("dropout") for the purpose of computing disability benefits would vary by the age of the worker at the time of disability, according to the following schedule:

Worker's Age	Number of Dropout Years
Under 27	0
27 through 31	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The proposal includes a provision to help protect people who have years of low or no earnings because they were taking care of children. This provision would allow 1 dropout year for each year in which the worker provides principal care of a child under age 6. The number of child-care dropout years and the variable dropout years combined could not exceed 5.

This section would apply only to workers whose initial entitlement to disability benefits begins after 1979. The child-care dropout provisions would be effective for workers who become disabled after 1980, but would take into account past years of low earnings in which a worker provided child-care services.

Under the present dropout year provisions, a worker who becomes disabled while young can get a higher benefit than a worker with comparable earnings who becomes disabled at an older age. This difference in potential benefits depending upon the worker's age at the time of disability would be substantially reduced by making the number of years that can be dropped more nearly proportional to the length of time over which earnings are averaged.

As under present law, disabled workers reaching age 65 would be converted to the retirement rolls; their benefits would not be recomputed to include additional dropout years. Survivor benefits would not be affected by the change in dropout years.

Work Incentive - Substantial Gainful Activity (SGA) Demonstration Project

The Commissioner of Social Security would be required to develop and carry out experiments and demonstration projects on the treatment of work activity under the DI program in order to identify approaches to encourage work activity. Further, the provision would allow the Secretary to waive compliance with DI and Medicare requirements, as necessary, to carry out these projects. The Commissioner would be required to notify the Congress at least 90 days in advance of any experiment or project, make periodic progress reports to the Congress, and submit a final report to the Congress no later than January 1, 1983.

The expenditures for these experiments would be made from the OASDI trust funds.

Extraordinary Work Expenses Due to Severe Disability

The bill would deduct the cost of any impairment-related work expenses (e.g., attendant care, medical devices, equipment, and similar items and services) paid for by the beneficiary from the disabled beneficiary's earnings in order to determine whether the worker was engaging in SGA.

The provisions would be effective on enactment.

Provision of Trial Work Period for Disabled Widows and Widowers; Extension of Entitlement to Disability Insurance and Related Benefits

First, the same trial work period applicable to disabled workers would be provided for disabled widows and widowers.

Second, a disabled beneficiary who completes a trial work period and whose benefits are terminated because of SGA would be automatically reentitled to benefits (i.e., without subsequent application or determination of disability) if SGA stops during the 12 months following termination. (This would apply only to disabled beneficiaries who have not medically recovered.) Benefits would be payable in the 12-month period following termination only for months the beneficiary does not engage in SGA.

Third, Medicare coverage would be extended for disabled beneficiaries who have completed a trial work period and whose benefits are terminated because of SGA (but who have not medically recovered). Medicare entitlement would continue for 36 months after termination of DI benefits.

These provisions would be effective with respect to individuals whose disability has not ceased before enactment.

Eliminate Requirement That Months in Medicare Waiting Period Be Consecutive

The proposals would eliminate the second Medicare 24-month waiting period for a former disabled beneficiary who becomes disabled and reentitled within 60 months after the previous disability benefits stopped (or within 84 months in the case of an adult disabled since childhood, a disabled widow, or a disabled widower).

This provision would be effective for months after the month of enactment.

Disability Determinations Under State Agreements; Federal Review of State Agency Allowances

The Secretary would be given authority to establish, through regulations, performance standards and procedures for the State disability determination process.

States would be given the option of (1) continuing to administer the program in compliance with these regulations or (2) turning over administration to the Federal Government after written notice. If a State elected to administer the program but later failed to comply with the regulatory standards, the Secretary would be authorized to take over direct administration.

After notice to a State, the Secretary would be able to terminate or modify an agreement because of unsatisfactory or inefficient performance. A State would be able to terminate an agreement after notifying the Secretary (as provided in regulations).

This provision would be effective 12 months following the month of enactment.

The Secretary would also be required to review State agency determinations before benefits could be paid, according to the following schedule:

- at least 15 percent in fiscal year 1980
- at least 35 percent in fiscal year 1981
- at least 65 percent in fiscal year 1982 and after

Information to Accompany Secretary's Decisions As to Claimant's Rights

Notices to claimants for OASDI benefits at either the initial or reconsideration level would have to contain a citation of pertinent law and regulations, a list of the evidence of record and a summary of the evidence, and the reasons for the decision.

This provision would apply to decisions made on and after the first day of the second month following the month of enactment.

Closed Evidentiary Record After a Hearing Decision

This provision would prevent the introduction of new evidence on an application after the decision is made at the administrative hearing.

The provision would apply to applications filed after the month of enactment.

Limitation on Court Remands

This provision would permit a court, on the motion of the Secretary for good cause, to remand a case to the Secretary. Also, the court at any time would be able to order additional evidence to be taken but only upon a showing that there is new and material evidence (and there is good cause for not having submitted the evidence previously).

The provision is effective on enactment.

Time Limitations for Claims Decisions

The Secretary would be required to report to the Congress by January 1, 1980, on appropriate time limitations within which OASDI decisions should be made in initial, reconsideration, hearing, and Appeals Council cases.

Vocational Rehabilitation Services for Disabled Individuals

Federal payment for the cost of rehabilitation services would be changed to give States additional incentive to successfully rehabilitate social security disabled beneficiaries. If the rehabilitation is successful, States would receive from the DI trust fund 120 percent of the cost of providing the services. If the rehabilitation is unsuccessful, States would receive from the general fund of the Treasury only 80 percent of that cost. A rehabilitation would be considered successful if the services enable the beneficiary to engage in SGA for at least 12 continuous months.

The Secretary would be required to study and report to the Congress by January 1, 1980, alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries.

The provision would apply with respect to fiscal years after September 1980.

Persons In Vocational Rehabilitation Plans

This provision would permit benefits to continue after medical recovery for persons in approved rehabilitation programs, if SSA determines that continuing in such a program will increase the probability of the person going off the disability rolls permanently.

The provision would be effective on enactment.

Payment for Existing Medical Evidence

Payment from the trust funds would be made for required medical evidence which is submitted by non-Federal institutions and physicians in connection with DI claims.

The provision would be effective on enactment.

Payment of Certain Travel Expenses

Payment from the trust funds would be provided for travel expenses necessary for medical examinations required by SSA in conjunction with DI claims. Also, travel expenses incurred by claimants, their representatives, and witnesses to attend DI reconsideration interviews or hearings would be paid by the trust funds. (This is done now under appropriations authority.)

The provision would be effective on enactment.

Periodic Review of Disability Determinations

Unless a finding has been made that a beneficiary's disability is permanent, a person's medical condition would be reviewed by either the State agency or the Secretary at least once every 3 years.

The provision would be effective on enactment.

H.R. 3236 As Reported by the Committee on Ways and Means

Estimated Effect on SSI, AFDC, Medicare, and Medicaid Expenditures, by Provision
(Pluses indicate cost, minuses indicate savings)

Provision	Estimated effect on SSI, AFDC, Medicare, and Medicaid expenditures in fiscal years 1980-1984 [a] (in millions)				
	Fiscal Year				
	1980	1981	1982	1983	1984
1. Limitation on total family benefits for disabled-worker families (section 2)					
SSI program payments	[b]	+$ 1	+$ 2	+$ 2	+$ 3
AFDC program payments	+3	+ 5	+ 8	+10	+12
General fund--Total	+3	+ 6	+10	+12	+15
2. Reduction in number of dropout years for younger disabled workers (section 3)					
General fund--SSI program payments	+5	+10	+17	+26	+36
3. Extension of Medicare coverage for 36 months for workers whose benefits are terminated because of SGA (section 6)					
Medicare benefits [c]	+6	+25	+51	+59	+66
4. Eliminate requirement that months in Medicare waiting period be consecutive (section 7)					
Medicare trust funds [c]	+36	+45	+54	+60	+66
5. Federal review of State agency allowances (section 8)					
Medicare benefits [d]	[b]	[b]	- 3	-11	-25
SSI program payments	- 2	-10	-25	-45	-60
SSI administrative costs [e]	+ 3	+ 6	+ 7	+ 7	+ 8
General fund--Total [f]	+ 1	- 4	-18	-38	-52

Provision	Estimated effect on SSI, AFDC, Medicare, and Medicaid expenditures in fiscal years 1980-1984 a/ (in millions)				
	Fiscal Year				
	1980	1981	1982	1983	1984
6. Periodic review of disability determinations (section 17)					
Medicare benefits g/	b/	- 7	-17	-35	-62
SSI program payments	- 3	-15	-30	-45	-55
SSI administrative costs e/	+17	+21	+23	+24	+25
General fund--Total f/	+14	+ 6	- 7	-21	-30
Total additional benefit payments from Medicare trust fund	+42	+63	+85	+73	+45
Total effect on expenditures from the general fund					
SSI	+20	+13	- 6	-31	-43
AFDC	+ 3	+ 5	+ 8	+10	+12
Total	+23	+18	+ 2	-21	-31
Total effect on expenditures from the OASDI trust funds	+18	-184	-467	-741	-1,048
Total net effect in Federal Government expenditures	+83	-103	-380	-689	-1,034

a/ Estimates are based on the intermediate assumptions in the 1979 Trustees' Report.
b/ Less than $500,000.
c/ Long-range average cost to the hospital insurance (HI) program over the next 25 years is less than 0.005 percent of taxable payroll.
d/ Long-range HI savings is 0.01 percent of taxable payroll.
e/ Additional funds will be required in FY 1979 to establish the administrative framework for implementation of this provision effective January 1980.
f/ There will be relatively small changes in Medicaid payments.
g/ Long-range HI savings is less than 0.005 percent of taxable payroll.

Social Security Administration
April 25, 1979

H.R. 3236 As Reported by the Committee on Ways and Means

Estimated Effect on OASDI Expenditures, by Provision
(Pluses indicate cost, minuses indicate savings)

Provision [a]	Estimated effect on OASDI expenditures in fiscal years 1980-1984 [b] (in millions)					Estimated effect on long-range OASDI expenditures as percent of taxable payroll [b]
	Fiscal year					
	1980	1981	1982	1983	1984	
1. Limitation on total family benefits for disabled-worker families (section 2)--						
Benefit payments	-$ 38	-$146	-$263	-$392	-$525	
Administrative costs	[c]	[c]	[c]	[c]	[c]	
Total	-38	-146	-263	-392	-525	- .09
2. Reduction in number of dropout years for younger disabled workers (section 3)--						
Benefit payments	-12	- 46	- 89	-139	-194	
Administrative costs	[c]	+ 1	+ 1	+ 1	+ 1	
Total	-12	- 45	- 88	-138	-193	- .04
3. Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (section 5)--						
Benefit payments	+ 1	+ 2	+ 5	+ 9	+ 13	
Administrative costs	[c]	[c]	[c]	[c]	[c]	
Total	+ 1	+ 2	+ 5	+ 9	+ 13	+ .01
4. Federal review of State agency allowances (section 8)--						
Benefit payments	- 4	- 19	- 73	-133	-198	
Administrative costs [d]	+ 6	+ 13	+ 16	+ 17	+ 17	
Total	+ 2	- 6	- 57	-116	-181	- .06

Provision [a]	Estimated effect on OASDI expenditures in fiscal years 1980-1984 [b] (in millions) Fiscal year 1980	1981	1982	1983	1984	Estimated effect on long-range OASDI expenditures as percent of taxable payroll [b]
5. More detailed notices specifying reasons for denial of disability claims (section 9)--						
Benefit payments	[e]	[e]	[e]	[e]	[e]	
Administrative costs [f]	+19	+ 20	+ 21	+ 22	+ 23	
Total	+19	+ 20	+ 21	+ 22	+ 23	[g]
6. Limit trust fund payments for costs of vocational rehabilitation services to only such services that result in a cessation of disability, as demonstrated by a return to work (section 13)--						
Trust fund payments	--	- 40	- 79	- 83	- 86	
Administrative costs	--	[c]	[c]	[c]	[c]	
Total		- 40	- 79	- 83	- 86	-.01
7. Payment for existing medical evidence and certain travel expenses (sections 15 and 16)--						
Benefit payments	[e]	[e]	[e]	[e]	[e]	
Administrative costs [h]	+20	+ 21	+ 22	+ 23	+ 24	
Total	20	+ 21	+ 22	+ 23	+ 24	[g]
8. Periodic review of disability determinations (section 17)--						
Total benefit payments	- 5	- 30	- 70	-109	-168	
For determinations made after enactment	---	----	----	- 10	- 20	
For determinations made before enactment	- 5	- 30	- 70	- 99	-148	
Administrative costs [d]	+31	+ 40	+ 42	+ 43	+ 45	
Total	+26	+ 10	- 28	- 66	-123	-.03

Provision a/	Estimated effect on OASDI expenditures in fiscal years 1980-1984 b/ (in millions)					Estimated effect on long-range OASDI expenditures as percent of taxable payroll b/
	Fiscal year					
	1980	1981	1982	1983	1984	
Total net effect on OASDI trust fund expenditures	+$ 18	-$184	-$467	-$741	-$1,048	-.21
Benefit payments	-58	-239	-490	-764	-1,072	
Payments for costs of vocational rehabilitation services	--	- 40	- 79	- 83	- 86	
Administrative costs	+76	+ 95	+102	+106	+ 110	

a/ The benefit estimates shown for each provision take account of the provisions that precede it in the table.
b/ Estimates are based on the intermediate assumptions in the 1979 Trustees Report. The estimated reduction in long-range average expenditures represents the total net change in both benefits and administrative expenses over the next 75 years.
c/ Additional administrative expenses are less than 1,000,000.
d/ Additional funds will be required in fiscal year 1979 to establish the administrative framework for implementation of this proposal effective January 1980.
e/ None.
f/ Subject to being increased depending on the interpretation of the provision.
g/ Less than 0.005 percent.
h/ Additional expenditures for the payment of certain travel expenses amount to less than $1 million in each year.

Note.--The above estimates are based on assumed enactment of H.R. 3236 in September 1979.

Social Security Administration
April 19, 1979

H.R. 3464 AS PASSED BY THE HOUSE OF REPRESENTATIVES

Earnings Level for Determining Substantial Gainful Activity (SGA)

The SGA level in the SSI program only would be increased to the dollar level at which countable earnings equal the applicable SSI payment standard. In determining countable earnings for SGA, the following amounts would be excluded from gross earnings: (1) $65; (2) an amount equal to the cost of any impairment-related expenses (e.g., attendant care, medical services, equipment, and similar items and services) necessary for the individual to work, no matter who pays the expenses; and (3) one-half of the remainder.

The provision would be effective July 1, 1980.

Earned Income Disregards

In determining eligibility for and the amount of a disabled person's SSI benefits, 20 percent of his gross earnings and an amount equal to the cost of any impairment-related work expenses paid by the individual would be excluded from earned income. The disregards are in addition to the present exclusions and would be applied after the $65 exclusion and prior to the exclusion of one-half of the remainder.

The provision would be effective July 1, 1980.

Resumption of SSI Benefits After Payments Stopped Due to SGA

Benefits would be resumed automatically (i.e., without subsequent application or determination of disability) if the worker is no longer performing SGA within 1 year after disability benefits stopped. Benefits would be resumed presumptively (i.e., until a disability determination is made) if the worker stops performing SGA after 1 year but within the next 4 years. In either case, the income and resource test would have to be met.

This provision would be effective July 1, 1980, and would apply to individuals whose disability has not been determined to have ceased prior to that date.

SSI Experimentation Authority

Experiments that are likely to promote the objectives of the SSI program or facilitate its administration would be authorized, with the following qualifications:

1. recipient participation is to be voluntary;

2. total income and resources of an individual are not to be reduced as a result of an experiment; and

3. there must be a project to determine the feasibility of treating drug addicts and alcoholics to prevent permanent disability.

The provision would be effective upon enactment.

Termination of Attribution of Parents' Income and Resources When Child Attains Age 18

The provision would terminate deeming at age 18, with the qualification that present recipients do not have a benefit reduction as a result; such recipients would receive benefits under the old or new law, depending on which provided the higher payment.

This provision would be effective July 1, 1980.

Information to Accompany Secretary's Decisions as to Claimant's Rights

Notices to applicants for SSI benefits, who are denied on either the initial or reconsideration level, would have to contain a citation of pertinent law and regulations, a list of evidence of record and a summary of the evidence, and the Secretary's decision and the reasons for the decision.

This provision would apply to decisions made on or after July 1, 1980.

Continuation of Benefits After Medical Recovery

The provision would permit benefits to continue after medical recovery for persons in approved rehabilitation programs, if SSA determines that continuing in such a program will increase the probability of the person's going off the disability rolls permanently.

The provision would be effective July 1, 1980, and would apply to individuals whose disability has not been determined to have ceased prior to that date.

H.R. 3464 As Passed by the House of Representatives

Estimated effect on SSI expenditures, by provision
(Pluses indicate cost, minuses indicate savings)

Provision	Preliminary estimated effect on SSI expenditures in fiscal years 1980-84[a] (in millions)				
	1980	1981	1982	1983	1984
1. Earnings level for determining SGA and earned income disregards, combined					
Benefit payments	+$ 5	+$ 30	+$ 44	+$ 53	+$ 63
Administrative costs	+ 2	+ 4	+ 5	+ 5	+ 6
Total	+ 7	+34	+49	+58	+69
Cost to social security disability program [b]					
Benefit payments	[c]	+ 2	+38	+71	+100
Administrative costs	+ 1	+ 1	+ 1	+ 1	+ 1
Total	+ 1	+ 3	+39	+72	+101
2. SSI experimentation authority					
Benefit payments	[d]	[d]	[d]	[d]	[d]
Administrative costs	[d]	[d]	[d]	[d]	[d]
3. Termination of attribution of parents' income and resources when child attains age 18					
Benefit payments	[c]	+ 1	[c]	- 2	- 4
Administrative costs	[e]	[e]	[e]	[e]	[e]
Total		+ 1		- 2	- 4
4. Information to accompany Secretary's decisions as to claimant's rights					
Benefit payments	[f]	[f]	[f]	[f]	[f]
Administrative costs	+ 6	+ 6	+ 7	+ 7	+ 7
Total	+ 6	+ 6	+ 7	+ 7	+ 7

[a] Estimates are based on the intermediate assumptions in the 1979 Trustees' Report.

[b] It is assumed that substantially raising the SGA level for SSI would allow considerable numbers of impaired individuals who are working and earning amounts over the present SGA level despite their impairments to qualify for SSI benefits without reducing their earnings. Once found disabled for SSI purposes, and with the assurance of some income from SSI, they could reduce their work activity to become eligible for the relatively higher benefits available under DI. The long-range cost would be 0.05 percent of taxable payroll.

[c] Negligible (less than $1 million).

[d] Cost is undetermined pending scope of experiments that would be undertaken.

[e] Negligible (less than 50 manyears).

[f] None.

Social Security Administration
April 17, 1979

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

APR 13 1979

The Honorable Thomas P. O'Neill
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I enclose for the consideration of the Congress a draft bill to be cited as the "Social Security Amendments of 1979".

Title I of the bill contains seven sections designed to constrain social security expenditures by refining the focus of the program on its most important objectives. These sections, explained in greater detail in the enclosed sectional summary of the bill, would--

- o reduce the retirement and disability benefits payable on the earnings record of a Federal retirement system annuitant to take into account the portion of that benefit attributable to the weighting of social security benefits to favor low-income workers;

- o repeal, for those who will become eligible for retirement benefits or entitled to disability benefits after May 1979, the provision that awards an insured worker a minimum benefit;

- o reduce the number of years disregarded in the computation of the monthly earnings of younger deceased workers;

- o terminate mothers' and fathers' benefits when a child reaches age 16, rather than 18, unless the child is disabled;

- o eliminate the future award of child's and mother's insurance benefits of based upon the earnings record of an individual who is not fully insured;

- o eliminate the future award of child's insurance benefits in the case of children age 18 through 21 who attend postsecondary schools; and

- o round primary insurance amounts and benefits to the nearest dollar, rather than the next higher 10 cents.

The benefit savings for the social security program estimated from these amendments, expressed in millions of dollars, are as follows:

Section	FY 1979	1980	1981	1982	1983
101	0	14	42	70	100
102	5	62	132	165	180
103	0	15	45	73	101
104	0	23	83	458	492
105	0	11	35	63	92
106	0	162	664	1,182	1,559
107	0	8	36	60	79
Total	5	295	1,037	2,071	2,603

Title II of the bill contains amendments, of negligible cost, intended to make a number of minor improvements in the OASDI program. Among the more important of these are amendments (1) to restore the monthly measure of retirement in limited situations (the monthly measure was repealed in its entirety of Public Law 95-216 except with respect to an individual's first year of retirement), (2) to eliminate the requirement that application be filed for OASI benefits as a condition of medicare entitlement, (3) to permit social security coverage of American citizens working outside the United States for a subsidiary of any American employer (currently coverage is limited to employees of subsidiaries of corporations); and (4) to improve the social security coverage of agricultural workers (including migrant workers).

The title also contains certain amendments, such as a proposal to institute a single optional method for determining net earnings from self-employment, that would simplify program administration.

We have been concerned for some time that the numerous amendments since 1950 to title II of the Social Security Act, which have greatly expanded the scope of the program, have

also made it increasingly complex to administer. The addition of major new benefit categories and differing eligibility requirements, the wage indexing of earnings, new primary insurance amount computations, and the adoption of special provisions extending coverage to various occupational groups have all contributed to this complexity. These additions have caused some public confusion about the nature and extent of the protection that the program provides, the adoption of unavoidably cumbersome administrative procedures to implement them, and higher administrative costs. A number of the provisions in title II of the bill intended to simplify administration of aspects of the social security program will also make the program easier to understand.

Title III of the bill would eliminate gender-based distinctions from title II of the Social Security Act. The effect of the title, as well as that of the other titles of the bill, is explained in detail in the enclosed sectional summary.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that enactment of the draft bill would be in accord with the program of the President.

Sincerely,

/s/ Joseph A. Califano, Jr.

Secretary

Enclosures

Sectional Summary
of the
Social Security Amendments of 1979

TITLE I -- OASDI COST REDUCTION

Reduction of OASDI benefit of civil service annuitants

Section 101 of the draft "Social Security Amendments of 1979" would reduce a worker's primary insurance amount by $1 for each $3 of any Federal pension the worker receives based on noncovered Federal employment, but only to the extent that the pension exceeds the average social security retirement benefit then currently awarded. In no case would the worker's primary insurance amount be reduced to less than 32 percent of his average indexed monthly earnings. The offset would cease with the worker's death, so that survivor's benefits would not be affected by it. The amendment would apply to benefits payable for months after August 1979 with respect to individuals who initially become eligible for retirement benefits or entitled to disability benefits after that month.

The purpose of the provision is to eliminate a windfall benefit that retired Federal employees may receive from the social security program if they are also eligible for such benefits because of work in covered employment. This windfall results from the weighting of social security benefits so that a larger percentage of a low-paid worker's pre-retirement earnings are replaced by his benefits than a high-paid worker's. Because most Federal employment is not covered by social security, earnings from that employment are not counted in determining the social security benefit of a Federal employee who also worked in covered employment. The employee therefore is treated under social security as a low-paid worker and, in consequence, receives a social security benefit that is inappropriately high when the employee's civil service retirement annuity is taken into account.

Repeal of minimum benefit provision with respect to individuals who become eligible for benefits after May 1979

Section 102 of the bill would repeal the minimum social security benefit with respect to individuals who first become eligible for retirement benefits or entitled to disability benefits after May 1979. A person who works regularly in covered employment, even at the minimum wage, now receives

a benefit well above the minimum benefit level. The minimum benefit provision has therefore largely become a windfall for career government employees and others who work in noncovered employment and also obtain social security protection from covered work.

Reduced dropout years for younger deceased workers

Section 103 of the bill would provide that in computing a deceased worker's average indexed monthly earnings (AIME), one year (but not more than a total of five) would be disregarded for each five years elapsing after 1950 (or age 21, if later) and up to the year of death. Current law simply provides for a five-year dropout in all cases. (As under current law, however, the amendment would require that at least two years be used in the period over which earnings are averaged.)

The larger number of dropout years in relation to the number of years of earnings that must be used in computing a worker's AIME, the greater the value of each dropout year in increasing the AIME (and therefore the social security benefit). The section would make the number of dropout years for deceased workers more nearly proportionate to the number of years used in computing the AIME, thereby reducing the level of survivor's benefits for survivors of younger deceased workers. The proportion of dropout years to years in the averaging period would generally be the same for deceased and retired workers. (A similar proposal applicable to disabled workers was included in the Department's previously proposed Disability Insurance Reform Act of 1979.) The section would become effective with respect to workers who die after August 1979.

Termination of mothers' and fathers' benefits when child attains age 16

Section 104 of the bill would end entitlement to benefits for the mother or father caring for a child who receives child's insurance benefits, when the child reaches age 16 (rather than age 18, as under current law). The section would not apply in the case of a parent caring for a disabled child aged 16 or over.

Benefits for these parents are based on the presumption that the parent must stay at home to care for a child. The amendment is proposed in recognition of the fact that the extent of parental care ordinarily required for a child who is not disabled and is age 16 or over does not make

it impracticable for the parent to work. Because such parents can be presume to be able to provide for their own support (the child in these cases remains entitled to child's insurance benefits) there is insufficient justification for continuing to provide these parents with social security benefits.

The section would be effective with respect to a current beneficiary but only at the end of two years after the month of enactment.

Elimination of child's and mother's insurance benefits based upon the wage record of an individual who dies currently but not fully insured

Section 105 would eliminate benefits based upon currently insured status (except for entitlement to Medicare eligibility on the basis of chronic kidney failure). Under current law a worker need only be currently insured (have 6 quarters during the 13-quarter period ending in the quarter in which he died) to be insured for certain social security survivors benefits. During the early years of the program, the provisions for currently insured status provided needed protection for some survivors of workers who died before they had enough work to be fully insured. Today, there is little need for the currently insured provisions because changes in the social security program and economic conditions over the years have made it easier to gain fully insured status.

Elimination of child's insurance benefits in the case of children age 18 through 21 who attend postsecondary school

Section 106 would amend the provisions of the Social Security Act dealing with child's benefits to phase out over a 4-year period benefits to children between the ages of 18 and 22 because of their full-time attendance as students at institutions of higher education or other postsecondary schools. Children aged 18-22 currently receiving benefits as full-time students could continue to receive benefits until age 22. Also benefits to children over age 18 would continue to be available to children who have not completed their elementary or secondary education.

"Student" benefits were provided in 1965 on the presumption that a student age 18-22, like a child under age 18 or disabled, is dependent on his or her parent for support and loses a source of support when the parent retires, becomes disabled, or dies. At the same time, though, once a child completes his secondary education and attains the legal

age of majority--increasingly regarded as 18, rather than 21, as reflected in the change in the voting-age requirement--the person is generally regarded as an adult, financially and otherwise responsible for himself, and a presumption of "dependency" is not valid. Student assistance should be provided through educational assistance programs not through an income maintenance program. A number of programs have been established since 1965 that provide educational assistance -- such as the Basic Educational Opportunity Grant program which provides educational assistance for post-secondary students based on their individual and family financial circumstances.

The section would apply to children who reached age 18 before September 1979.

Rounding of primary insurance amounts and insurance benefits to the nearest multiple of one dollar

Section 107 would provide for rounding monthly social security benefit amounts to the nearest one dollar rather than to the next higher ten cents. This would result in some program saving while obtaining the administrative efficiency of using amounts that are in one dollar intervals.

TITLE II -- ADDITIONAL OASDI PROGRAM IMPROVEMENTS

Use of monthly measure of retirement in certain cases; Elimination of requirement that application be filed for OASDI benefits as a condition of Medicare entitlement

Sections 201 and 202 of the draft bill would make two amendments to title II of the Social Security Act to deal with certain undesirable consequences of the amendments made by section 303 of the Social Security Amendments of 1977. That section repealed the monthly earnings test which, notwithstanding the amount of a beneficiary's annual earnings, permitted full payment of title II benefits in months in which the beneficiary had low or no earnings. The 1977 amendments removed the monthly test except for the first year a beneficiary had a month in which he earned less than the monthly exempt amount and did not provide substantial services in self-employment. After that first year, deductions under the earnings test are based on annual earnings only.

While this policy is sound with respect to retirees, it has unduly harsh results in the case of certain other individuals, such as those receiving child's (including

students) benefits or mother's (or father's) benefits. Elimination of the monthly earnings test can result in overpayment of benefits to these indiviudals in the year in which their benefits terminate, even for months in which they were entitled and did not work. For example, if a student graduated and went to work, or a mother whose entitlement terminated because her child was no longer entitled went to work, earnings after benefits terminated would be used in applying the annual earnings test and could cause benefits which had already been paid to become overpayments. Frequently, these beneficiaries do not know in the beginning of the year what their earnings will be, or whether they will have any earnings later in the year. To eliminate problems of this sort, section 201 of the bill would restore the monthly earnings test, in the year in which entitlement ends, for individuals receiving benefits under section 202(b) (if the individual has a child in her care), (d), or (g) of the Social Security Act. Further, in order to avoid these consequences for beneficiaries whose entitlement might be terminated more than once, particularly children whose entitlement is based on their status as full-time students and thus might have their entitlement end, be restored, and end again, the monthly earnings test would be available in each year of termination.

The second technical difficulty which section 202 of the bill would correct is the requirement contained in section 226 of the Social Security Act that as a condition to the receipt of hospital insurance benefits under part A of title XVIII (Medicare) an individual must be entitled to benefits under title II. If he were still working, he would under prior law have merely established his entitlement under title II, had cash benefits suspended because of earnings, and thereby established his entitlement to Medicare benefits. In any month of low earnings, the individual would have received benefits under title II because of the monthly earnings test. However, under present law, if a person filed for title II cash benefits at age 65 to establish entitlement to Medicare, the monthly earnings test could be triggered by an isolated month of no earnings or low earnings. As a consequence, the monthly test would not be available to him in a later year when he actually stopped working because of a decision to retire. In order to reserve the "grace" year, when the monthly earnings test would apply, section 202 of the draft bill would provide for separate applications for title II benefits for the non-disabled and for hospital insurance benefits. Individuals who have already used their grace year and wish to withdraw their applications and repay the cash benefits received so that the monthly test would

be available in a later year of retirement, will be deemed to have filed an application for Medicare so that that coverage can continue without interruption. The section would not impair the authority of the Secretary with respect to the payment of Medicare benefits in the case of individuals whose previously withdrawn applications for Medicare benefits are reinstated.

Change in date upon which termination of coverage of employees of nonprofit organizations or foreign subsidiaries of domestic corporations may be effective

Section 203 would provide that agreements providing social security coverage for employees of nonprofit organizations and foreign subsidiaries of American corporations can be terminated no earlier than the end of the second calendar year after the year the organization or corporation gives notice.

Employees of a nonprofit organization and employees of a foreign subsidiary of an American corporation who are U.S. citizens are not required to participate in the social security program. They can receive credit for their work under social security only if the nonprofit organization or American corporation enters into an agreement providing social security coverage for the employees. The organization or corporation can terminate the agreement by giving 2 years' advance notice. The notice period begins at the end of the calendar quarter in which the notice is given and ends 2 years later.

The change is needed to prevent employees whose coverage is being terminated from getting unnecessarily generous treatment by social security. Prior to the 1977 social security amendments a worker generally received credit for a quarter of coverage for a calendar quarter in which he was paid at least $50 in wages. Under the 1977 amendments the rule for earning quarters of coverage was changed from a quarterly to an annual basis--in 1979 a worker gets one quarter of coverage for each $260 of annual earnings. As a result, if nonprofit organizations and American corporations with foreign subsidiaries terminate social security coverage, their employees could get more quarters of coverage in the year their coverage ends than they could have before the amendments. In some cases an employee whose coverage ended in the first quarter of the year could get 4 quarters of coverage--the maximum number per year.

The same situation would also have been true for State and local employees whose coverage terminates; however, the 1977 amendments restricted the effective date of termination of coverage of State and local employees to the end of the calendar year. The proposal would result in equitable treatment of all employees whose coverage can be terminated.

Coverage of employees of foreign subsidiaries of American employers

Section 204 of the draft bill would permit social security coverage of American citizens working outside the United States for a foreign subsidiary of an American employer that is a sole proprietorship or partnership. Under present law, social security coverage may be extended to such individuals only when they are employees of a foreign subsidiary of an American corporation.

Improved coverage of agricultural workers

Section 205 would amend title II of the Social Security Act so that coverage of agricultural employees whose employers have substantial expenditures for farm labor -- $2,500 annually -- would no longer be subject to the social security coverage test of present law, but would be covered on a first-dollar basis. Thus, their coverage would be determined on the same basis as coverage of employees of nonfarm employers. Agricultural employees furnished by a crew leader would be deemed to be employees of the farm operator.

Under current law, coverage of agricultural employees, including many migrant workers, is subject to a restrictive coverage test which prevents many workers from getting social security credit for part or all of their farm employment. Under this test, a worker's earnings from a farm employer are generally not covered unless during the year he is paid cash wages of at least $150 by the employer or works for him on at least 20 days for cash wages determined on an hours of work or other time basis. Also, workers furnished by a "crew leader" to a farm operator to perform agricultural labor are generally considered employees of the crew leader for social security purposes. However, the crew leaders sometimes fail to report amounts earned by the workers for social security purposes.

When the coverage test was included in the law in 1956, it took into account that many farmers at that time were unaccustomed to recordkeeping and might find it difficult to make reports for social security purposes of wages paid to

relatively short-term employees. Since the 1950s, major changes have taken place in agriculture. Many farms keep the same kind of records as nonfarm businesses do, and there is no longer justification for preventing many of the workers who are employed by such farms from getting social security credit for their work.

While this change would cover about 90 per cent of the wages paid to all farm workers, it would affect less than 20 per cent of farm employers. The present coverage test would continue to be applicable to all farms which have annual expenditures of less that $2,500 for agricultural labor. Additionally, providing that the farm operator would be the employer of agricultural workers furnished by a crew leader is expected to significantly improve compliance with the wage reporting provisions, thereby improving the protection of migrant farm workers.

Modification of penalities for failure to make a timely report of excess earnings

Section 206 of the draft bill would modify the penalty imposed upon a beneficiary when he fails to timely file an annual report of earnings in excess of the retirement test exempt amount. Currently, the penalty for first failure to file a timely report (due within 3 months and 15 days after the end of the year in question) is the amount of the monthly benefit to which such beneficiary was entitled for the last month of such year; for a second such failure, an amount equal to 2 months' benefits; and for a third or subsequent failure, an amount equal to 3 months' benefits. Under proposed section 206, failure to file timely would result in a warning without penalty for the first violation, a penalty of an amount equal to one month's benefit at the current monthly benefit rate for a second violation, and a penalty of 2 months' benefits at the current monthly benefit rate for a third or subsequent violation. The penalty would be assessed at the current monthly benefit rate rather than at the benefit level payable in the last month of the year in question, as in current law, since it would result in some administrative savings.

Repeal of elective coverage by current employees when nonprofit organizations elect coverage of their employees

Section 207 of the draft bill would eliminate the provision in current law which permits employees of certain tax-exempt nonprofit organizations to choose whether to be

covered under social security at the time an organization elects (by filing a waiver certificate) to provide coverage for its employees.

The proposal would require coverage of all employees of an organization when it waives its social security exemption. Under current law, a nonprofit organization will occasionally report wages paid to its employees without having filed a waiver certificate, or a nonprofit organization which has filed a waiver certificate will report wages of all employees, including those who did not choose coverage. This amendment would relieve the Department of burdensome and costly procedures to correct such situations.

State and local coverage agreements allowed to become effective from date of delivery to Secretary

Section 208 of the draft bill would provide that the effective date for any State or local coverage agreement (including any modification) under section 218 of the Social Security Act would be the date the agreement is mailed or delivered to the Secretary. Currently, coverage agreements generally become effective when 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. The proposal would eliminate a source of friction between the Secretary and the States by permitting the States to exercise control over the effective dates of agreements.

Simplification of Trust Fund reimbursement computation with respect to benefits attributable to noncontributory wage credits for military service

Section 209 of the draft bill would simplify the computation of the amount of reimbursement by the Treasury Department to the social security Trust Funds for the cost of benefits attributable to noncontributory wage credits for military service. Section 217 of the Social Security Act provides such credits for the period from September 16, 1940 to December 31, 1956, while section 229 of that Act provides such credit for calendar quarters after 1956. In cases where individuals are eligible for credits under both sections, the cost to the Trust Funds of paying increased benefits must be computed separately because different procedures are provided for each. Section 209 of the draft bill would, in these cases, allow one computation for purposes of both sections.

Forgiveness of certain unpaid social security taxes

Section 210 of the draft bill would provide forgiveness of all unpaid social security taxes resulting from service in the War Shipping Administration. The Secretary is currently required to withhold from benefits payable on the earnings records of former War Shipping Administration employees amounts equal to any unpaid social security taxes. Such unpaid taxes are the result of coverage being extended to such employees in 1943, but retroactive to 1941. The proposal would allow the Secretary to eliminate the process for identification of claims involving the unpaid taxes, the deduction of the taxes from benefits, and notification of the claimant. This process involves an inordinate amount of time and expense relative to the amount of taxes due.

Payment of certain travel expenses

Section 211 of the draft bill would authorize the Secretary to pay travel expenses incident to an individual's medical examination requested by the Social Security Administration to determine disability, and to parties, their representatives, and all necessary witnesses for travel to reconsideration interviews and to proceedings before administrative law judges under title II, XVI, or XVIII of the Social Security Act. For fiscal year 1977 and a number of preceding years, the authority to make such payments was included in the annual Labor-Health, Education, and Welfare Appropriations Act and enactment of section 211 will therefore involve no additional cost.

Mutual assistance agreements

Section 212 of the draft bill would authorize the Secretary to enter into agreements with the governments of other countries to exchange information necessary to secure evidence of entitlement to social security benefits and to maintain beneficiary rolls under the social security system of each such country. Under a mutual assistance agreement, the staff of the social security system of the foreign country would obtain information from sources outside the United States necessary to enable the Department to process claims and verify continuing entitlement to benefits of U.S. social security beneficiaries who are living in that country, and the same service would be provided by U.S. social security offices to the social security system of that country.

Currently, 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 HEW personnel in the United States through direct correspondence with the beneficiary or with the assistance of U.S. diplomatic and consular posts abroad. We believe that the administration of the social security program outside the United States would be more efficient if the Department could obtain the assistance of social security agencies in other countries in developing claims and verifying continuing entitlement to benefits.

Interest on late state deposits

Section 213 of the draft bill would conform provisions in the Social Security Act, which specify the rate of interest charged on late payments of social security contributions due on the earnings of State and local employees, to similar provisions in the Internal Revenue Code which specify the rate of interest charged on late payments of social security contributions due on the earnings of other employees. At present the annual interest rate under the Social Security Act is set at 6 percent. In 1975 the annual interest rate under the Internal Revenue Code was set at 9 percent but was made subject to adjustment in accordance with changes in the prime lending rate. The annual interest rate under that provision at present is 6 percent. The proposal removes the incentive to make late payments of contributions on the earnings of State and local employees when the prime rate is higher than 6 percent.

Pension Reform Act--cost reimbursement

Section 214 of the draft bill would provide for payment to the social security Trust Funds for expenses incurred in providing information required to enable an employee benefit plan to comply with the Employee Retirement Income Security Act of 1974 (commonly referred to as the Pension Reform Act).

Provisions of the Pension Reform Act require administrators of most employee pension plans to furnish to plan participants information concerning their accrued and vested benefit rights. In addition, employers are required to maintain records, in accordance with Department of Labor regulations, sufficient to determine the benefits which are, or may become, due to each employee. While some pension plans do not have the earnings information necessary to provide the required information, the Department does

maintain it and has already received requests from some plans for complete earnings histories of plan members. The requests are often large (500,000 earnings histories must be provided pursuant to one request and 375,000 earnings histories pursuant to another). The Department estimates that there will be requests for about 3,300,000 individual earnings histories at an estimated cost of $120 million. This section of the draft bill would make clear that reimbursement of these costs is not governed by the Freedom of Information Act or by the Privacy Act. Under the provisions of these Acts, it is estimated that the allowable reimbursement would be no more than $72 million. Thus, the cost to the social security Trust Funds would be $48 million. Section 214 would permit the Department to recover from the requesting party the full cost of retrieving and transmitting information for purposes of enabling pension plans to comply with the Pension Reform Act, and would save the Trust Funds approximately $7 million in fiscal year 1981.

Coverage of services of nonresident Filipinos in Guam

Section 215 of the draft bill would repeal the exclusion in current law (section 210(a)(18) of the Social Security Act) from social security coverage of services performed in Guam by nonresident Filipinos. Under the law nonresident aliens working in Guam, except nationals of the Philippines are covered by social security. The repeal would assist the many Filipino workers who enter Guam as temporary residents but later become permanent residents to secure coverage for the work they had previously performed as nonresident aliens. Also, it would reduce the competitive advantage of reduced labor costs that is now enjoyed by companies employing Filipino workers.

Social security foreign work test

Section 216 of the draft bill would amend the test contained in present law which prescribes the monthly amount of non-covered remunerative activity in which a beneficiary outside the United States may engage before losing his social security benefit for that month. Under the current law, if a beneficiary works on 7 or more calendar days within the month (regardless of how little he may have worked on each of those days) he loses the entire benefit for that month. It seems unduly harsh to withhold an entire month's benefit for as little as one hour of work per day for 7 days (which is possible under current law). The draft bill would modify

the test to allow beneficiaries to work as many as 45 hours in a month, regardless of the number of different days on which the work was performed, without losing benefits.

Single optional method for determining net earnings from self-employment

Section 217 of the draft bill would provide only one optional method for reporting net earnings for all self-employed people whether their business is farm or nonfarm. A self-employed person who wished to use the option would add his net income from all farm and nonfarm businesses; if his net earnings from all business income was less than $1,600 he could use the option and report two-thirds of his total gross earnings, but not more than $1,600. Two restrictions on the use of the option would be kept. A person could not report less than his actual net earnings from all businesses and a person could not use the option more than five times for reporting nonfarm earnings.

The social security record of a self-employed person is now based on net annual earnings from self-employment. Current law provides an optional method for reporting net earnings which allows a person to continue his social security protection in years he has very low earnings or a net loss from his business. The optional method is basically the same for farm and nonfarm self-employment but there are restrictions on the use of the nonfarm option.

Both optional methods allow a person to report two-thirds of his gross income (but no more than $1,600) instead of his actual net earnings from self-employment. The nonfarm option can be used only five times in a lifetime, may be used in a year only if the person had actual net earnings from self-employment of a least $400 in at least 2 of the 3 immediately preceding taxable years, and can not be used to report less than actual net earnings from self-employment.

The different rules for using the farm and nonfarm options have made administration of the options very difficult and are confusing to the public. This is especially true for a person who has both farm and nonfarm businesses. Under present law, he may have a choice of as many as four amounts to report as his net earnings from self-employment. The proposed change would be easier for the public to understand and for SSA to administer.

Employer contribution with respect to tips

Section 218 of the draft bill would require employers to pay social security contributions on the full amount of covered tips received by an employee. The 1977 amendments to the Social Security Act require employers to pay social security taxes on tips, but only on that portion of the tips which are deemed to be wages for purposes of the Federal minimum wage. Under present law, an employer can pay up to 50% less than the Federal minimum wage by counting as wages for this purpose tips received by the employee. Thus, current law gives an unwarranted advantage to employers whose employees receive a significant portion of their income in the form of tips, and, on the other hand, disadvantages the Trust Fund because the social security employer contribution is not paid on the full amount of tips. Further, since the full amount of the employee's "wages" do not produce employee and employer contributions in the same amount, additional recordkeeping is required, thus imposing administrative burdens on the Department, and, indeed, on the employer.

Penalty for late wage reports by states

Section 219 of the draft bill would authorize the Secretary of Health, Education, and Welfare to impose a penalty on a State that has entered into an agreement for coverage of State and local employees, if the State is late in filing a report of covered wages. The late filing penalty would be the same as for private employers who at present are charged 5 percent, up to a maximum of 25 percent, of the amount of tax due. Partial or erroneous reports filed timely with the Secretary would not be considered delinquent and the draft bill would impose no penalties in these cases.

Within the State, State and local employers submit wage reports for their employees to the State. The State reviews these reports and then forwards them to the Secretary. In most cases of late reporting, the State and the local employers have not filed their reports timely with the State. Late State reports cause process delays and increase the administrative burden upon the Department. The penalty provision would provide an incentive for States to report timely and to insist the State and local employers report timely to them.

Lump-Sum death benefit

Section 220 of the bill would repeal the lump-sum death benefit provided under title II of the Social Security Act and replace it with a similar benefit under the SSI program. The payment would equal the amount payable for one month to a single indiviudal without income and would be paid to a surviving spouse who had been living with the deceased individual immediately prior to his death, if either the deceased or the spouse was eligible for SSI in the month of death. Under this proposal the payment would be made to the person who would ordinarily assume the expenses associated with the spouse's death and to whom, because of limited resources, the lump-sum payment would be of significant help in meeting those expenses. The amendments made by this section are expected to result in savings of $221 million in fiscal year 1980, and of $358, $363, $367, and $370 million in each of the following years.

Conforming changes in delayed retirement credit provision

The Social Security Amendments of 1977, Public Law 95-216, lowered from 72 to 70, effective beginning with calendar year 1982, the age at which an individual may receive his full social security benefit without regard to his current earnings. Section 221 is a technical amendment to make a conforming change in a provision of title II of the Social Security Act that increases the social security benefit on account of delayed retirement. The section would lower from 72 to 70 the age beyond which no further retirement credit is available.

Penalties for misuse of social security numbers

Section 222 would increase from $1,000 to $5,000 the maximum monetary penalty for offenses under title II of the Social Security Act, including misuse of a social security number, and would extend the penalty to include the counterfeiting, altering, buying, or selling of a social security card, or possession of a social security card or counterfeit card with intent to sell or alter it.

TITLE III -- ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Divorced husbands

Section 301 of the draft bill would provide social security benefits for aged divorced husbands and aged or disabled surviving divorced husbands based on their former wives

earnings records. (Under a district court decision, benefits are being paid to aged divorced husbands.) Currently, the statute provides for the payment of benefits to aged divorced wives and aged or disabled surviving divorced wives but benefits are not for similarly situated men.

Remarriage of surviving spouse before age 60

Section 302 of the draft bill would make the requirements for widowers' benefits the same as they now are for widows. Currently, widows and widowers who remarry before age 60 are treated differently with respect to their eligibility for benefits based on their deceased spouses' earnings. A woman may qualify for benefits as a surviving spouse, even though she has remarried, so long as she is not married at the time she applies for benefits. A man, on the other hand, currently loses forever his eligibility as a surviving spouse of his deceased wife worker if he remarries before age 60.

Illegitimate children

Section 303 of the draft bill would modify the law applicable to benefits for illegitimate children so that such children would be eligible for benefits based on their mothers' earnings as they are currently for benefits based on their fathers' earnings. In general, the determination of one's status as a parent or child for purposes of the social security program is based upon the intestate succession laws of the State in which the insured individual is domiciled. However, an illegitimate child may be eligible for benefits based upon a man's earnings, without regard to the appropriate State intestate laws, if, among other things, the man has been decreed by a court to be the father of the child, or the man is shown by evidence satisfactory to the Secretary to be the father of the child. Similar provisions do not currently apply when an illegitimate child claims a benefit based upon his mother's earnings.

Transitional insured status

Section 304 of the draft bill would apply to husbands and widowers certain social security eligibility provisions which currently apply to wives and widows. Under current law, certain workers who attained age 72 before 1969 are eligible for social security benefits under transitional insured status provisions which require fewer quarters of coverage than would ordinarily be required. Wives and widows of eligible

male workers who reached 72 prior to 1969 also are eligible for benefits under this provision, but husbands and widowers of eligible female workers are not. The amendment which would be made by section 304 would provide benefits for husbands and widowers of female workers who would qualify when these transitional insured status provisions.

Equalization of benefits under section 228

Section 305 of the draft bill would amend the section of the Social Security Act which authorizes benefits for certain uninsured individuals who attained age 72 prior to 1972. In order for a couple to receive payments under this section, both spouses must have attained age 72 prior to 1972. However, even though each spouse must meet the same eligibility requirements he or she would have to meet if not married, once the eligibility of both are determined, the couple is treated as if the husband were the retired worker and the wife were the dependent. The amount of the special payment for the couple is not divided equally between husband and wife. Rather, the payment, which comes largely from general revenues, is allocated so that the husband is paid two-thirds of it and the wife is paid one-third. Section 305 of the draft bill would require that the payment be divided evenly between them.

Father's insurance benefits

Section 306 of the draft bill would provide social security benefits for a father who has in his care an entitled child of his retired, disabled, or deceased wife (or deceased former wife). Currently, under the statute, a mother who has in her care a child of such a spouse receives a benefit for both herself and her child based upon the earnings of her husband. As a result of a Supreme Court decision in Weinberger v. Wiesenfeld, 420 U.S. 636 (1975), a similarly situated widower can qualify for father's benefits based on his deceased wife's earnings. Benefits are not provided for the husband of a retired or disabled worker (or the surviving divorced husband of a deceased worker) who has an entitled child in his care. Section 306 would amend the statute to conform to the Wiesenfeld decision, and would provide benefits for a husband or surviving divorced father with an entitled child in his care.

Effect of marriage on childhood disability beneficiary

Section 307 of the draft bill would terminate the benefits of a childhood disability beneficiary, regardless of sex, when the beneficiary's spouse is no longer eligible for

benefits as a childhood disability beneficiary or disabled worker beneficiary. A childhood disability beneficiary is a person with a severe disability that began before age 22 who is entitled to benefits as the son or daughter of an insured worker who is entitled to social security benefits (or who has died). In general, the social security law provides for termination of dependent's or survivor's benefits at the time of marriage, since it is presumed that the dependency situation on which the benefits are based no longer exists. An exception is made when one social security beneficiary marries another, since it cannot be presumed that either one is able to support the other. Thus, in general, when a childhood disability beneficiary marries another social security beneficiary, the benefits of neither spouse are terminated by reason of the marriage. However, when a childhood disability beneficiary is married to another childhood disability beneficiary or to a disabled worker beneficiary, and the disability benefits of one of the beneficiaries is terminated because the beneficiary recovers or engages in substantial work, the continued eligibility of the spouse depends upon the spouse's 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. The amendments made by section 307 would be effective with respect to terminations of benefits of childhood disability or disabled worker beneficiaries occurring after the month of enactment.

Effect of marriage on other dependents' or survivors' benefits

Section 308 of the draft bill would terminate social security payments to an individual, regardless of sex, who is receiving dependents' or survivors' benefits, when his or her spouse is no longer eligible for childhood disability benefits or benefits as a disabled worker. Currently, in general, if a childhood disability or disabled worker beneficiary marries a person getting certain kinds of social security dependent or survivor benefits, the benefits of each individual continue. If the disabled beneficiary is a male and he recovers or engages in substantial work and his benefits are terminated, his wife's benefits also end. If, however, the disabled beneficiary is a woman, her husband's benefits are not terminated when her disability benefits end. The amendments made by section 308 would be effective with respect to terminations of benefits of childhood disability or disabled worker beneficiaries occuring after the month of enactment.

Treatment of self-employment income in community property States

Section 309 of the draft bill would permit self-employment income of a married couple in a community property State to be credited for social security purposes to the spouse who exercises the greater management and control over the trade or business. Currently, in community property States, all income from a business owned or operated by a married couple is deemed, for purposes of social security, to be the husband's, unless the wife exercises substantially all management and control. In all other States, such self-employment income is credited to the spouse who owns or is predominantly active in the business. The amendment made by section 309 would be effective with respect to taxable years beginning after December 1979.

Credit for certain military service

Section 310 of the draft bill would apply to widowers a provision of the social security law which currently permits a widow, under certain circumstances, to 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.

Conforming amendments

Section 311 of the draft bill would make a number of conforming changes in provisions of title II of the Social Security Act that are required because of the substantive changes that would be made by the preceding sections of title III of the draft bill.

Effective date

Section 312 of the draft bill would make title III of the bill effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1979.

H.R. 3434 AS REPORTED BY THE HOUSE WAYS AND MEANS COMMITTEE

Amendments to Title IV-B Child Welfare Service

An additional $266 million in Federal funds per fiscal year would be made available to the States on an entitlement basis.

The funds would be available in two stages. The first portion would enable States to improve and expand their child welfare services, including implementation of new foster care safeguards, and due process protections. Each State would be eligible for remaining funds after demonstrating it had completed first-stage requirements.

States must earmark 40 percent of the new money for services to keep children with their families or reunify families (such as homemaker, day care, crisis intervention services).

Also, the Federal matching rate would be increased to 75 percent.

Foster Care Program

Federal matching would be available for the first time for children placed in foster care pursuant to a voluntary agreement. Under present law, Federal matching is available only for children placed in foster care as a result of a judicial determination.

Children placed voluntarily prior to enactment of the bill would be "grandfathered-in" after the agency responsible for the child develops a case plan (explaining child's placement, services to be provided, expected date for child to be returned home) and the plan has received a court or administrative review.

Federal matching funds would also be made available for foster care provided in publicly-operated child care institutions which care for 25 or fewer children. Under present law, Federal matching is available only to non-profit, private child care institutions without size limitation.

New Program of Adoption Assistance

Each State may provide an adoption assistance program as part of its AFDC program for children in foster care who have "special needs" which make it difficult or impossible to find an adoptive home without providing assistance.

"Special needs" exist when a child cannot or should not be returned to his or her home, or if a special condition exists such as age, ethnic background, physical, mental or emotional handicap or membership in a sibling group.

The amount of adoption assistance would be determined by an agreement between adoptive parents and the administering agency, taking into account financial circumstances of adoptive parents. The amount would be subject to adjustment according to changes in those circumstances, and could not exceed the amount that would have been paid for foster care in a foster family home, except that one-time costs associated with the adoption could be covered.

The adoption assistance could continue until the child reaches age 18 or until age 21 in the case of a child with physical or mental handicap.

There would not be any upper limit on funding to States under this proposal.

Amendments to Title XX Relating to Public Assistance Programs Administered by SSA

Effective October 1, 1979, States would be able to use their share of $200 million in funds now earmarked for child care for grants to employers who hire welfare recipients as child care workers.

Federal Funding for the Territories

The bill would make permanent the $78 million funding level and 75 percent Federal matching rate for the AFDC, Old-Age Assistance, and Aid to the Permanently and Totally Disabled programs in Puerto Rico, Guam and the Virgin Islands.

H.R. 3434 As Reported by the Committee on Ways and Means

Estimated Effect on Outlays, by Provision
(Pluses indicate cost, minuses indicate savings)

	Provision	Estimated effect on outlays in fiscal year 1980 a/ (in millions)
1.	Increased funding for Title IV-B child welfare services	+$101
2.	AFDC foster care program	+$ 12
3.	New adoption assistance program	$ 0 net cost
4.	Amendments to Title XX Relating to SSA programs	$ 0 (Title XX) -$ 1 (Title IV-A)
5.	Amendment to Title XI Federal funding for the Territories	+$ 52

a/ Estimates made by the Congressional Budget Office and approved by the Subcommittee, May 1979.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

JUN 5 1979

The Honorable Thomas P. O'Neill
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I enclose for the consideration of the Congress a draft bill to be cited as the "Social Welfare Reform Amendments of 1979".

The bill is a series of closely related amendments to existing laws, primarily to part A of title IV of the Social Security Act, the statutory basis for Federally assisted State programs of aid to families with dependent children (AFDC), and to title XVI of that Act establishing the SSI program, but also to other authorities, such as the Medicaid program, and the earned income credit provided in the Internal Revenue Code of 1954, having direct implications for welfare programs. This bill is one of two proposals that will be presented to the Congress. Covered by a companion draft bill are proposals for a program of jobs, training, and employment related services.

Title I of the bill, containing the amendments to the AFDC program, would amend the Social Security Act to provide fundamental improvements in the basic AFDC benefit structure, to make significant administrative changes designed to increase the responsiveness and efficiency of AFDC programs, while reducing error and waste, and to provide fiscal relief to States.

Specifically, the bill would make important changes in the AFDC programs in the following areas:

- o Amount of benefits and income disregards. Effective fiscal year 1982, a national minimum payment level would be established. The minimum, when added to the food stamps available, would give the AFDC family purchasing power of no less than 65 percent of the poverty level. Prior to 1982, an income disregard would be required

in each State in which the payment level does not meet the national minimum. By requiring this disregard (the so-called low benefit disregard) of income equal to the difference between the national minimum benefit and State's actual payment level, we will assure that a family with some additional income will not suffer a loss of income until its purchasing power is equivalent to 65 percent of the poverty level. The low benefit disregard will be retained after 1982 but based, then, on 75% of the poverty level.

- o Aid to dependent children of unemployed parents. The language of section 407 of the Social Security Act, permitting States to provide aid to dependent children because of the unemployment of the father, would be amended to refer to the "unemployed parent". Further, the parent with respect to whom the dependency test would be applied would be whichever parent was the principal earner in the family. The requirement that the parent have a recent previous attachment to the work force would be deleted, and the 30-day waiting period would be dropped. In order to assure that the principal earner be actively seeking employment, eligibility could be certified for two months only. For any month thereafter, the Secretary of Labor would have to provide assurance that no employment would be available to the principal earner for that month.

- o Required coverage of children and certain adults. Coverage would be mandated for families with dependent children because of the unemployment of a parent, for pregnant women who would not otherwise be eligible for AFDC until the birth of the child, for children who meet the statutory definition of dependent child, and for both parents in incapacity and unemployment cases.

- o Greater consistency with the food stamp program. The definition (including inclusions and exclusions) of income and resources would be set out in considerable detail for the first time in the AFDC authorizing legislation. These definitions

are taken directly from the Food Stamp Act of 1977, with only a few changes having been made to reflect differences in the scope or objectives of the two programs. Insofar as feasible, however, the two programs have been aligned, thus leading to increased public understanding and administrative simplification of the relationship of the two programs.

- o Other administrative improvements. Several amendments are designed to achieve more efficient and effective administration of the AFDC programs throughout the States. Regular reporting of circumstances would be required and, for cases with income or other factors subject to change, the Secretary will, by regulation, require monthly reporting. After the first month, benefits would be determined retrospectively, based on actual circumstances in the previous month, rather than on forecasts of the current month's circumstances, as is now the case, and disregards for work expenses would be standardized. Finally, States could obtain assistance for mechanized eligibility systems and grants for innovative administrative practices.

- o Fiscal relief for States. Each State's costs for AFDC benefits would be reduced by 10 percent (or, with respect to unemployed parent cases, 30 percent) through an amendment to the provisions for Federal matching. Also, upon the effective date of the various elements of mandatory coverage and the national minimum benefit, the States would be guaranteed for the next five years that they need spend no more than 95 percent of the amount spent in fiscal year 1979, indexed to reflect changes in the Consumer Price Index. Thereafter, the Federal payment (to achieve the fiscal relief described) would phase-out over the following three years.

We believe these amendments, together with the companion legislation for jobs, training, and employment related services, represent a sound blueprint for gradually improving and strengthening these Federally assisted State AFDC programs: by assuring a more adequate level of support for needy families, by providing greater numbers of employment and training opportunites, by assuring greater equity among the programs of all the States, and by facilitating significant improvements in program administration.

Title II of the bill contains amendments to the Supplemental Security Income (SSI) program of aid to aged, blind, and disabled established under title XVI of the Social Security Act. Among the more significant are --

- The replacement of food stamps currently received with an additional cash payment for a substantial portion of the SSI recipients,

- The denial of eligibility for SSI, and therefore for Medicaid, for specified periods of time when an individual has disposed of resources having an uncompensated value in excess of $3000 within 24 months of application (paralleling an amendment to the AFDC program), and

- The adjustment of an initial retroactive OASDI payment, often in a substantial amount, to reimburse the SSI program for benefits paid during the period of the OASDI determination, in order to eliminate the windfall that occurs when the OASDI determination is delayed and the SSI payment is unreduced during that period of delay.

Additionally, the bill would make amendments having an impact on the quality of the administration of the SSI program. Similar to the AFDC amendment described above, the bill would provide for the determination of SSI eligibility and benefit amount on a retrospective (rather than prospective) basis. This change will greatly increase the certainty that underlies SSI determinations -- they can be founded on facts rather than predictions -- and it is expected to reduce to a significant degree the volume of overpayments in SSI.

Title III of the bill contains amendments that apply to two or more of the public assistance programs established under the Social Security Act. These amendments include limits on the time within which a State must file claims for Federal reimbursement, amendments to the financing provisions applicable to the territories, amendments to the Immigration and Nationality Act to require legally enforceable support agreements for certain aliens (other than refugees) entering the United States, in order to reduce the likelihood of

their dependency upon State and Federal welfare programs, and amendments to the Social Security Act and Internal Revenue Code to assure the availability of carefully limited income information, with appropriate safeguards and penalties for misuse, to this Department and to State agencies administering welfare programs.

In addition, title IV contains certain amendments to the Child Support Enforcement Program, established by part D of title IV of the Social Security Act, which have been submitted to the Congress earlier.

The amendments referred to above, as well as the remaining ones contained in this draft bill, are described in greater detail in the attached section-by-section description of the bill.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that enactment of the draft bill would be in accord with the program of the President.

Sincerely,

/s/ Joseph A. Califano, Jr.

Secretary

Enclosures

Section-by-Section Summary of the Social Welfare Reform Amendments of 1979

TITLE I -- AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

Part A -- Income and Resources

Definition of Income and Amount of Disregards from Earned Income

Section 101 of the bill makes several amendments affecting the definition and treatment of income under the AFDC program.

Subsection (a) pertains to income disregards. Paragraph (1) adds the reference, in section 402(a)(7) of the Act, to the new section 412 (described below) that contains detailed provisions for determining income and resources. It also removes the generalized reference to exclusion of work expenses, as these amounts are standardized by other amendments described below.

Paragraph (2) of subsection (a) revises much of section 402(a)(8). As amended, that section would provide for disregards from income. First, income is determined by applying the detailed definition contained in section 412 described below which excludes, among other things, 20% of wages and self-employment income in recognition of work expenses, and child care expenses up to a monthly limit of $160 per child between July 1979 and June 1980, with appropriate adjustments, if necessary, thereafter. From this, there is disregarded the first $70 (rather than, as under current law, the first $30) of earned income plus one-third of the remainder of the earned income of an individual included in the AFDC grant. Provision would also be made, in section 402(a)(8)(B), for an additional disregard of income from any source, in States where the AFDC paid to a family with no other income, plus the food stamp allotment such a family would receive (with no income other than AFDC and allowing only the standard deduction of the food stamp program) is less than 65 percent of the poverty level (defined below). The State must disregard income in an amount equal to the difference between its AFDC grant to a family with no other income, and the grant that would be payable to such a family if, AFDC, together with the food stamps that family would receive, equaled 65 percent of the poverty level. This is referred to informally as the "low benefit disregard".

Subsection (b) adds a new section 412 to the Social Security Act, containing an explicit statement of items to be included in and excluded from income. It largely parallels the provisions of section 5 of the Food Stamp Act of 1977, with a few exceptions where the purposes or characteristics of the AFDC program suggest different treatment. Most importantly, paragraph (9) of section 412(a) would provide for the exclusion of the cost of producing self-employment income and 20 percent (as a standardized work expense allowance) of wages, salary, or net earnings from self-employment. Paragraph (10) prescribes the exclusion of amounts spent for child care (or necessary care for an incapacitated family member) up to a monthly limit of $160 per person for the 12 months beginning July 1979, with subsequent adjustments to that amount to the extent the Secretary finds appropriate because of changes in the cost of the care.

Section 412(b) would require the Secretary of Health, Education, and Welfare to issue regulations, after consultation with the Secretary of Agriculture, to assure the coordinated operation of the AFDC and food stamp programs.

Subsection (c) provides that these amendments (to the AFDC plan requirements) become effective six months after their enactment, but a State may amend its plan and implement these changes during that six month period.

Provision is also made, effective January 1, 1980, for including in an individual's earned income the advance payment of the earned income credit (under the Internal Revenue Code of 1954) for which an individual is eligible.

Income of Stepparents

Section 102 would add a new paragraph to section 402(a) of the Social Security Act, the requirements for State plans under the aid to families with dependent children (AFDC) program. States would be required to count that portion of the income (after subtracting the 20 percent of earned income for work expenses) of a child's stepparent, (living in the same home as the child) which exceeds (1) the amount needed by the stepparent to support himself and others living in the same household whom he claims as dependents for Federal income tax purposes, (2) amounts actually paid by the stepparent to dependents not living in the same household, and (3) payments of alimony or child support to individuals not living in his household. The amendment would be effective October 1, 1979.

Treatment of Certain Income

Section 103 changes the treatment of certain types of income under the AFDC program. Subsection (a) addresses the provision in current law that requires AFDC, payable because of the unemployment of a parent, to be reduced by the amount of unemployment compensation received by him. This section would be repealed and unemployment compensation would be treated as any other non-employment income.

Paragraph (1) of subsection (b) repeals section 402(a)(19)(D), the plan requirement relating to the work incentive program that requires the complete disregard of training allowance under the WIN program and the consideration in determining need of additional expenses in connection with participation in that program. Paragraph (2) amends the WIN program (section 434(a)) to provide for the reimbursement of expenses in connection with training under WIN, in addition to the incentive payment already authorized by law. Paragraph (3) adds a new subsection to section 434, to require the disregard from income of incentive payments or payments to reimburse for expenses made under section 434(a).

These amendments become effective six months after enactment.

Modifications in Treatment of Income Effective Fiscal Year 1982

Section 104 establishes several amendments to part A of title IV with a delayed effective date of October 1, 1981.

Paragraph (1) of subsection (a) repeals the reference, in section 412(a), to income excluded because it is received too irregularly or infrequently to be anticipated (since, with retrospective accounting this should no longer be a problem).

Paragraph (2) limits the exclusion of income for child care costs to families with dependent children other than by reason of the unemployment of a parent.

Subsection (b) amends section 402(a)(8)(A) such that the disregard of the first $70 of earned income and one-third of the remainder will cease to be applicable to families receiving AFDC by reason of the unemployment of a parent.

Subsection (c) would raise the percent of the poverty level, from 65 to 75 percent, specified in section 402(a)(8) for purposes of establishing the extent of the low benefit disregard.

Subsection (d) repeals section 402(a)(8)(D), the requirement that the earned income disregard, currently $30 plus one-third of the remainder, only be available to current or recent recipients, or to families who would be eligible without the application of that disregard. This amendment establishes so-called "eligibility to the break-even amount".

Definition of Resources and Allowable Limits

Section 105 amends section 412 of the Act to authorize the Secretary to specify items to be excluded from and included in resources; the bill would also prescribe allowable resource limits for State AFDC plans. The allowable amount must be at least $750, and may be as high as $1,750, at State option. Those States that have resource limits higher than $1,750 in effect for September 1981, will not be required to lower their resource limits.

Items to be included in and excluded from resources are specified (in addition to the Secretary's rules) and generally parallel the applicable provisions contained in section 5 of the Food Stamp Act of 1977 and the implementing regulations. Excluded from resources are: the home, a burial plot, household goods and personal effects, the cash surrender value of life insurance (up to limits prescribed by the Secretary), property which provides a reasonable rate of return or is essential to the employment of a family member, amounts received from a public agency for restoration of a home or business damaged in a disaster, and resources that cannot be readily converted to cash by any family member.

This section also adds two paragraphs to section 402(a): State plans must provide that liens will not be placed against property of AFDC recipients, and that individuals will be

ineligible for AFDC if they dispose of property having an uncompensated value of more than $3000 within 24 months of applying for benefits or while in recipient status. A period of ineligibility ranging from 6 to 24 months (depending on the amount of uncompensated value) applies to the individual in the family who disposes of property. If he recovers the resource or its fair market value, however, the period of ineligibility ceases at that time and his eligibility will be considered under the current circumstances.

These amendments will be effective October 1, 1981.

Part B -- Eligibility and Benefit Structure

Eligibility for AFDC by Reason of the Unemployment of a Parent

Section 106 amends section 407 of the Social Security Act, the unemployed father program.

Subsection (a) removes the references to "unemployment of a father" and broadens the statutory language to include either parent, whichever is the "principal earner" (a term defined by the amendment made by subsection (c) below).

Subsection (b) would amend section 407(a). Unemployment would be determined in accordance with regulations of the Secretary, as under current law. However, section 407(a) of the Act would be amended to indicate that those regulations will prescribe a uniform minimum monthly level of earnings expected from full time employment -- thus defining the limit of unemployment. Such a limit, if prescribed at the present time, would equal $500 per month.

Subsection (c) repeals the requirement that the unemployed parent have been employed for at least 6 out of 13 quarters in the period ending a year before the application for AFDC (or received unemployment compensation within the year prior to application).

Subsection (d) adds a definition of principal earner to section 407 -- whichever parent, living in the home, earned the greater amount in the six months preceding application for AFDC (although the Secretary is given authority to issue rules to avoid hardship or deal with unusual cases).

Subsection (e) makes various conforming changes in section 402(a)(19) of the Act, pertaining to referral for and subsequent requirements relating to employment services and acceptance of employment or training. A new clause is added to section 402(a)(19)(A) to exclude from the work requirement the second parent in the unemployed-parent family, unless the parent who is the principal earner has failed to comply with all applicable requirements.

Subsection (f) repeals the requirement currently in section 407(b) that the parent undergo a 30-day waiting-period (i.e., must have been unemployed for 30 days) before receiving AFDC.

Subsection (g) describes the effective dates. The amendments made by subsections (a), (b), (d), and (e) become effective October 1, 1980; the deletion of the "6 out of 13 quarters" test and of the 30-day waiting period occur October 1, 1981.

Amount of Benefits for Child not Living with Relative Responsible for his Support

Section 107 of the bill would add a new section 413 to part A of title IV, effective October 1, 1979, to describe the circumstances under which the States may reduce the AFDC grant in accordance with Secretarial regulations. The reduction, to recognize the reduced financial need for the costs of shelter and utilities that occurs in many such cases, may be made when there is no relative in the household legally responsible for their support or when the support of the relative is being provided from another source.

Definition of Dependent Child; Mandatory Coverage of Certain Individuals

Subsection (a) of section 108 amends section 406 of the Act to limit the definition of dependent child, as applicable to those over age 17 and attending school beyond the secondary level, to those attending full-time, and to define AFDC to include payments to a pregnant women, who would, following the child's birth, be eligible for AFDC. Subsection (b) amends section 402(a), the requirements for State plans, to require coverage of all dependent children including dependent children of unemployed parents, the pregnant women described above, and the parent (or both parents, in incapacity or unemployment cases) of the dependent child living in the same home. However, at its option, the State may exclude dependent children who are over 17 and attending school beyond the secondary level.

These amendments become effective October 1, 1981.

Benefit Standards

Section 109 of the bill would mandate a national minimum AFDC benefit. Subsection (a) amends the AFDC plan requirements so that an approved plan must provide for making payments of the difference between a family's (countable) income and the State's monthly cash needs standard. That standard may be no less than the amount which, together with the value of food stamp allotment the family would receive (as a household having no income other than AFDC and applying only the standard deduction of the food stamp program), equals 65 percent of the poverty level (prescribed below).

Subsection (b) amends section 402(a)(1)--the Statewideness plan requirement. It allows an exception to that general rule so that, so long as they are at or above the minimum benefit level, (1) States may have no more than six monthly needs standards depending on the geographic area of the State to which they apply, and (2) six additional, lower, levels for the unemployed parent cases.

These amendments become effective October 1, 1981; however, a State may grandfather the payment standards for families that received AFDC for September 1981 if those pre-existing standards are higher than the required monthly cash needs standard that would otherwise be applicable to the family. Further, for four years after the effective date of this amendment, States may have a greater number of geographic variations than described above so long as the State has an approved amendment to its AFDC plan demonstrating that it is making substantial progress toward meeting the required number of variations by the end of the four years.

Income Poverty Guidelines; Adjustment for Changes in the Consumer Price Index

Section 110 of the bill would add a new section 414 to part A of title IV of the Social Security Act, containing definitions and procedures for establishing several critical amounts alluded to in various other amendments made by this bill and described above.

"Income poverty guidelines" are those prescribed by the Office of Management and Budget for the nonfarm population of the United States (and as adjusted by OMB pursuant to section 625 of the Economic Opportunity Act of 1964). For the first nine months of fiscal year 1980, the guidelines

prescribed for 1979, adjusted by the change in the Consumer Price Index from December 1977 to December 1978, will be used; for the twelve months beginning with July 1980 (and each 12 month period thereafter), the guidelines for the same year will be used, adjusted by the CPI change for the 12 month period ending with the preceding December.

The monthly allotment of food stamp coupons under the Food Stamp Act of 1977 will be determined for the first nine months of fiscal year 1980 by reference to the allotments that would have been available for the January - June 1979 period. Thereafter, for any 12 month period beginning with July, the allotments are determined with reference to the schedules for the preceding 6 months.

These amendments are effective upon enactment.

Determinations of Eligibility; Representation of Claimants; Notice and Opportunity for Hearing

Section 111(a) amends section 402(a)(4) of the Social Security Act to delineate a claimant's rights and responsibilties. Subparagraph (A) states his right to opportunity to apply for assistance; subparagraph (B) requires a prompt determination of eligibility, and notice (and payment, if the applicant is eligible) of the determination within 30 days. For those applicants whose eligibility cannot be determined within 30 days, for reasons other than the applicant's failure to cooperate, subparagraph (C) requires the plan to provide that they be found "presumptively eligible" and be provided cash assistance for three months (two months for AFDC-UP families) or until the determination is made, whichever is sooner, and that the payments on the basis of presumptive eligibility not be considered overpayments. Subparagraph (D) requires replacement of lost or stolen checks within 10 days from the date replacement was requested (if requested between the third and thirtieth day following the usual delivery day). Subparagraph (E) requires the plan to provide notice and opportunity for a hearing and that, if action adversely affecting a recipient's payment is taken based upon information furnished by the recipient, or because of this failure to report, notice will be sent to arrive no later than the date upon which the action will become effective. Subparagraph (F) requires the State to allow clients to be represented by lawyers (or any other of their choice) in any matter involving the State or local agency.

Subsection (b) repeals section 402(a)(10) since its substance is consolidated into section 402(a)(4).

Subsection (c) amends section 406 to state that payments on the basis of presumptive eligibility and payments to replace lost or stolen checks are aid to families with dependent children, and could, therefore, be included for Federal matching.

Period for Determination of Aid; Times at which Payment must be Made.

Section 112 of the bill adds a new paragraph (21) to the statutory requirements for State plans. It pertains to the effective date of the application, the period for determination of eligibility and calculation of aid, and the time (or times) during the month at which payment must be made. Most requirements are new; a few reflect a reorganization of the provisions of existing law.

Subparagraph (A) requires that an application will be effective for the month preceding the month of filing, but the State may pro rate the first payment by the number of days that elapsed in the month of filing before application was made.

Subparagraph (B) requires that States determine eligibility for and amount of assistance for a month at the time (or times) prescribed by the Secretary after the close of the month and that all income received by a family member before the date of application, and family composition and amounts of resources, to the extent there have been changes from the month preceding application to the month of application, will be treated in accordance with the rules prescribed by the Secretary (consistent with a new subsection (d) added to section 402(a)) to the extent it affects eligibility or benefit amount for the month of application or the preceding month. Subsection (d) would require the Secretary to prescribe rules for the first two months' payments that provide for an uninterrupted transition to the retrospective accounting system and that, with respect to factors affecting eligibility and benefit amount in the first two months, will allow the Secretary to take appropriate account of changes in a family's circumstances that have recently occurred and to assure that initial benefits will reflect the family's current, rather than its past, need for AFDC.

The new paragraph also requires that payment of at least half the amount for which the family is eligible be made within the month after application, and that payment of at least half the monthly amount be made when the determination of eligibility occurs (unless the regular day for payment is within the next week).

Also, the plan must provide that with regard to unemployed parent cases, after the first two months, the family will be eligible for any month only if the Secretary of Labor certifies that employment for that month was not offered to the principal earner (or if the Secretary fails to submit any certification).

An additional plan requirement is added to assure that the State will review, at least annually, all facts relevant to a family's eligibility and that the State will adopt all rules for reporting by recipients that the Secretary requires.

These amendments are effective October 1, 1981, but if the Secretary finds that although the State does not fully meet these requirements, it is moving to place all its cases into a phased review cycle, and will complete that process within the 6-month period that begins with the effective date of the requirement, the Secretary may conclude that the State plan is not out of compliance with Federal rules. The State is also give the option of implementing these amendments at any earlier date following enactment, with the approval of the Secretary. Such a State may also have a six-month period to phase in its cases on the rolls at the selected effective date.

Provision is also made for a transitional payment, when the State shifts from prospective to retrospective accounting. Since no benefits would otherwise be paid in that month, a transitional payment will be made to each family eligible for AFDC for the preceding month. The amount of the transitional payment will be the same as the amount the family received for the preceding month, plus, if the (retrospective) payment will be made later than the tenth day of the following month, that amount pro rated by the fraction of the next month elapsing before payment will be made. The transitional payment will be treated as an AFDC payment, and the increase because of the elapsed days in the following month must be disregarded from income under any other Federal or State program.

Employment Requirement and Services Related to Employment

Section 113 contains various amendments to section 402(a)(19) of the Social Security Act, the requriements related to employment, training, and related services. The general

purpose of these amendments is to retain the requirement for participation in the employment related activities, leading up to referral for employment and training, but without limiting the means of satisfying those requirements to referral to and participation in the work incentive program established under part C of title IV of the Act. These amendments will make it possible to bring work incentive programs and similar programs operated under the Comprehensive Employment and Training Act (CETA) together in a more integrated administrative framework. (The Administration will be proposing related amendments in companion draft legislation to amend the Comprehensive Employment and Training Act.)

Subsection (a)(2) does make an amendment of substance (currently contained in regulations); it specifies that for purposes of section 402(a)(19) of the Act, good cause for refusing employment or training exists if an individual would have less income after accepting the job or training opportunity than he did before. (When making this comparison, income has the same meaning as it does for AFDC, plus whatever publicly funded in-kind benefits the Secretary of Labor specifies.)

A second change is the amendment of the sanction provision in section 402(a)(19)(F)(i) that would leave to State option (rather than require, as under present law) the making of protective payments for the child of a relative who refuses to comply with the work requirement.

Another substantive change concerns the sanction that is applied following a refusal (without good cause) to accept employment. The amendment would repeal the sixty-day delay in the imposition of specified sanctions if the individual accepts counseling designed to persuade him to participate in the program. Instead, there is a 30 day delay period after which the prescribed sanction must be imposed for at least 45 days (or until the individual withdraws his refusal), whichever is later.

Part C of title IV of the Act is amended to allow the Work Incentive Program, as currently administered, and similar programs under a new part E of title II of CETA to be administered under an integrated administrative system. These amendments will serve to better coordinate WIN and CETA activities, better utilize CETA programs, especially those that will be proposed as a new part E of title II, to serve similar populations, and avoid duplication of services between WIN and CETA. References through-

out the bill are made to "employment and training services", rather than "manpower services" as currently in the law, in order to bring WIN into closer conformity to CETA.

As amended, section 431 would authorize the appropriation of funds directly to the Secretary of Labor, rather than to the Secretary of Health, Education, and Welfare who currently transfers the funds to the Secretary of Labor. Subsection (a)(2) would mandate that joint appropriations for WIN programs and any similar CETA functions specify the amount to be used for work incentive programs. Subsection (c) changes the allocation formula to reflect both State AFDC caseload and costs of providing services, to assure continued support for needed services.

Section 432, as amended, would require that the programs be statewide and be administered by agencies and authorities which the Governor would designate. The Secretary of Labor will deal directly with public or private agencies only in cases where the State plan is disapproved. Conforming references throughout the amendments to part C of title IV therefore change the administration of the WIN program from the Secretary of Labor directly to the State.

Section 433 as amended would require the plan to provide for an administrative system for coordinating employment and training services between WIN and CETA, would require establishment of statewide and labor market area planning committees to plan both this and similar programs under CETA and would require the plan so produced be approved by the Secretary of Labor in consultation with the Secretary of Health, Education, and Welfare. The program so developed would provide services for both WIN registrants and other AFDC eligible individuals requesting such services. As with other provisions mandating coordination between WIN and CETA, section 433(a)(3) specifies that when any activities mandated by part C of title IV can be carried out by a similar program under CETA, the State plan for this and CETA must be an integrated plan consolidating similar provisions.

Section 433(i), describing the conditions under which public service employment programs may be operated, is amended to mandate use of the CETA system as the principal provider of such jobs either by specific agreements with prime sponsors or otherwise. It therefore deletes all the current conditions which govern public service employment.

Section 435 is amended to require cash contributions, rather than in-kind, as currently allowed, for the 10% State share in the WIN program.

Although the proposed program will be operated under appropriations made directly to the Secretary of Labor, joint Federal administration is preserved by requiring concurrence of the Secretary of Health, Education, Welfare in regulations for the WIN program and by providing for the establishment of a national coordination committee to review and recommend procedures and policies, including coordination with CETA. Current law mandates joint regulation and the national coordination committee, but allows state plan to be reviewed and approved at the regional level. The change would strengthen the Federal role and facilitate closer coordination and use of the CETA system.

These amendments become effective October 1, 1981, except that the amendment made by subsection (a)(5) and (6) and subsection (c) (to leave to State option the decision to make protective payments for the child if the relative refuses employment and imposing, after a 30 day period, a sanction of at least 45 days and continuing until withdrawal of the refusal) are effective October 1, 1979.

Assistance to Meet Emergency Needs

Section 114 of the bill adds a new section 415 at the end of part A of title IV of the Act relating to assistance for families with children to meet their emergency needs. That section defines "emergency needs" (those arising from an accident or disaster or other uncontrollable, unpredictable or nonroutine event) and "eligible family" (one that receives AFDC, or whose income is not more than twice the poverty guidelines and whose resources meet a State prescribed limit between $750 and the allowable resource amount for AFDC), and "assistance to meet emergency needs" (assistance in the form of cash, vendor payments, or other forms found appropriate by the State). The authorization for FY 1982 would be $200 million (and such sums as are necessary for subsequent years).

Subsection (b) adds a plan requirement so States must provide assistance to meet emergency needs, in accordance with priorities prescribed by the Secretary.

Subsection (c) makes the necessary amendments to section 403 of the Act, payments to States, to set up block grants to States for this purpose. Half the available funds are distributed among the States on the basis of AFDC caseload, the other half on the basis of State spending for AFDC. If any of these amounts are not spent by a State, it may retain one-third for use in the subsequent year for emergency assistance, and return the remainder to the Secretary. He may reallot so much of those amounts as do not exceed 5% of the total appropriation for that year.

The remainder of this section makes necessary conforming amendments.

Part C -- Federal Financial Participation; Administrative Improvements; Related Medicaid Amendments

Increased Federal Financial Participation

Section 115 of the bill amends section 403 of the Act to increase the Federal support for State AFDC programs. Effective October 1, 1981, an additional amount for each quarter equal to 10 percent of the non-Federal share of total expenditures in that quarter for aid to families with dependent children deprived by reason of the death, absence, or incapacity of a parent, and 30 percent of the expenditures for aid in unemployed parent cases, would be provided to each of the fifty States and the District of Columbia. States must pass through to the localities a portion of this additional payment that is proportional to the localities' participation in the non-Federal share of AFDC expenditures.

Limitation on Fiscal Liability of States

Section 116 amends part A of title IV by adding a new section 417, establishing, effective October 1, 1981, a limitation on State fiscal liability under the AFDC program. Section 417 would provide:

(a) If, in FY 1982, or any of the following four fiscal years, a State's "allowable expenditures" exceed 95 percent of its "fiscal liability base" (both terms are defined below), the Secretary will pay the amount of that excess to the State. For fiscal years 1987 through 1989, he will pay a declining proportion (starting at 100 percent, and decreasing by one-third percent each year) of the excess determined for 1986. The State must agree to "pass-through" to political subdivisions that contribute to the non-federal cost of AFDC a proportionate share of these payments.

(b) "Allowable expenditures" means a State's expenditures for aid to families with dependent children in fiscal year 1982 (or any of the following four fiscal years) times (in situations in which there has been a real benefit increase) the ratio of the average monthly AFDC payment for an indigent individual in FY 1979 (or, if greater, the mandatory minimum AFDC payment level) to the average monthly payment to such an individual in FY 1982 (or the subsequent fiscal year). The State's "fiscal liability base" is the non-Federal share of expenditures for aid to families with dependent children in 1979, indexed to reflect changes in the cost of living from FY 1979 to FY 1982 (or the subsequent fiscal year).

(c) Additionally, in recognition of the possible increase in the Medicaid caseload because of the new AFDC requirements,

States may increase the amount of the allowable expenditures described above by: the average amount of medical assistance furnished to an AFDC family in 1979 (indexed for changes in the cost of living from FY 1979 to FY 1982 (or the subsequent fiscal year)), times the increase in the number of AFDC families eligible for medical assistance between FY 1979 and FY 1982 (or the subsequent fiscal year).

(d) Finally, States may increase their "allowable expenditures" for 1982 or the subsequent fiscal year) by the product of the average administrative cost per case in FY 1979 (indexed (times the increase) to 1982 or 1983) times the increase in the average monthly number of cases throughout the applicable year.

Administrative Improvements

Section 117 amends section 402(a)(5) of the Act, the plan requirement for necessary methods of administration, to specify some of the particular areas in which the Secretary will be issuing regulations for required administrative methods. They will deal with a variety of administrative matters related to a State's operation of the program, such as prospective budgets for its administrative costs, allowable costs and cost allocation rules, fiscal controls, and quality control procedures. This amendment will be effective October 1, 1979.

Programs for Mechanized Processing and Management Information Systems

Section 118 would amend section 403 of the Social Security Act to make improved Federal matching available to States that develop and operate computerized management information systems for their AFDC programs. The matching rate would be 90 percent for the costs of development and implementation of such systems, and 75 percent for their ongoing operation. The States's system must meet specified criteria in order to qualify for the increased support, including matters such as the compatibility of State systems with each other and with those of the Social Security Adminsitration to the extent necessary to permit the conduct of periodic screening between jurisdictions. The State may, at its option use these systems in it administration of other Social Security Act programs. However, the Secretary will prescribe cost allocation rules and no part of the costs attributable to the programs other than AFDC may be included for matching under the AFDC program. Additionally, the Secretary would be directed to provide necessary technical assistance to enable States to develop and operate such systems. These amendments will become effective October 1, 1979.

Assistance for the Development of Administration Improvements in AFDC Programs

Section 119 would add a new section 418 to the Act, authorizing the Secretary to make funds available to any State agency by administering a plan approved under the Social Security Act, to assist the agency in developing improved or innovative administrative techniques to enhance program administration. Specific administrative objectives are described that proposals must meet in order to be funded under this new section. Funding would be available for up to 75 percent of the costs; none of these Federal funds would be available for computer-related expenses or expenses of routine administration. These amendments would be effective upon enactment.

Corrective Action Regarding Overpayments and Underpayments

Section 120 adds a new plan requirement to section 402(a); effective October 1, 1980, State AFDC plans must provide for the recovery of overpayments, and for the making of payments to correct erroneous denials or underpayments previously made.

AFDC Recipient Review

Section 121 of the bill amends section 402(a) of the Act, effective October 1, 1979, to require the State AFDC plan to provide that the State will, together with other State welfare agencies, review its caseload to verify the identity of recipients and determine whether a recipient is receiving AFDC, or any other Federally supported benefits, under the same program in more than one State.

Monitoring and Assessment of Performance in the AFDC Program

Effective upon enactment, section 122 of the bill would add a new section 1117 to the Social Security Act. That new section would direct the Secretary to develop procedures for monitoring and assessing performance, at least annually, of the effectiveness of the statutory plan requirements and the AFDC plans, as implemented, in achieving the purposes of the law.

Technical Amendments to Incentive Adjustments for AFDC Quality Control

Section 123 of the bill contains technical amendments to section 403(j) of the Social Security Act, a new provision added by the Social Security Amendments of 1977. That subsection of the law authorizes incentive payments to States with low erroneous payments. Further, no distinction

is presently made in the law between erroneous expenditures, i.e., overpayments to eligibles or payments to ineligibles, on the one hand, and so-called negative case actions, or underpayments (or the failure to make payments) to eligibles. Therefore, this section would amend section 403(j) to define these different types of case actions and provide specifically for the manner in which each class should be taken into account in calculating incentive payments. Because these amendments are essential to the calculation of incentives, they would be effective January 1, 1978, the date that subsection (j) first went into effect.

Amendments to Medicaid Program

Section 124(a) amends section 1902 to specify that, for purposes of categorical eligibility for Medicaid, an individual will only be considered to be an AFDC recipient if he received Medicaid in one of the four preceding months based on his receipt of AFDC, or he would, in the current month, be eligible for AFDC without application of the disregard from earned income of $70 plus one-third of the remainder.

Subsection (b) amends section 1902 of the Social Security Act to specify that, if a State AFDC plan did not, for September 1981, include dependent children of unemployed parents, then the State's Medicaid plan need not include such families when the Federal requirement for their inclusion in AFDC becomes effective on October 1, 1981. Also, if the State's Medicaid plan for September 1981 did not include coverage of the medically needy, then medically needy coverage subsequent to September 1981 is not required to include the medically needy families with an unemployed parent. Finally, subsection (c) amends section 1903(f)(2) so that, in evaluating a family's income to determine whether it is medically needy, the AFDC earned income disregard of $70 plus one-third of the remainder will not be applied.

Part D -- Implementation

State Implementation of Amendments

Section 125 authorizes the Secretary of Health, Education, and Welfare, to allow a State (at its request) to implement over a six month period certain of the amendments that this bill would make. In the case of changes in the criteria for determining eligibility for or amount of aid to families with dependent children, the amendment may be phased in if the Secretary finds that it will be accomplished for recipients of AFDC over the course of the six-month redetermination cycle, and that that phasing is consistent

with the proper and efficient operation of the AFDC plan. No such gradual effectuation is authorized, however, for applicants for AFDC.

Applicability of Amendments to the Territories

Section 126 specifies which sections of the bill apply only to the 50 States and the District of Columbia, and which apply as well to the territories (which for this purpose, includes Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands).

Part E -- Amendments to the Internal Revenue Code Affecting the Earned Income Credit

Governmental Payments to be Disregarded for Purposes of Support and Maintenance of Household Tests

Section 127 of the bill would amend section 2 of the Internal Revenue Code of 1954 to provide that, when determining whether a person is supported by himself or by another individual, or when a person is maintaining a household, amounts provided under a public program of assistance used for support or for maintenance of a household will not be taken into account. This amendment will become effective January 1, 1980.

Amendments to the Earned Income Tax Credit

Section 128 amends the Internal Revenue Code of 1954 to make the following changes for years after 1981 in the earned income credit: section 43(a) of the Code would be amended to allow a credit equal to 12 percent (rather than 10 percent) of earned income not in excess of $5000. The limitation on the credit, contained in subsection (b), would be amended to provide a maximum credit of $600 (instead of $500) and provision would be made for reduction of the credit by 15 percent (rather than 12.5 percent) of adjusted gross income over $7000 (instead of $6000). The definition of earned income would be amended to expressly exclude earnings from services performed in a public service job if such earnings are paid in whole or in part, from funds provided under title II of the Comprehensive Employment and Training Act of 1973.

TITLE II -- SUPPLEMENTAL SECURITY INCOME

Part A -- Food Stamp Cash-Out

Food Stamp Cash-Out for SSI Certain Recipients

Section 201 of the bill amends part A of title XVI by adding a new section providing cash payments in lieu of food stamps for certain SSI recipients.

Section 1619 of the Social Security Act would provide as follows:

(a) The Secretary will make a cash payment, in addition to the SSI benefits (which, throughout this section, includes Federally administered supplementary payments) payable to an individual, in the case of each such beneficiary living alone (in his own household) or living with others all of whom are SSI beneficiaries. The payment will be made together with the SSI check and will be excluded from income in determining the amount of the Federally administered supplementary payment.

(b) The Secretary will establish one amount for eligible individuals, and another for eligible couples. The amount will equal the value of the coupon allotment to an aged individual (or couple) with no income other than the SSI benefits, and subtracting only the standard deduction specified in section 5(e) of the Food Stamp Act of 1977 and one-half the maximum excess shelter deduction specified in that in that section, currently $75. In establishing these amounts, the Secretary will only consider supplementary payments if they are made to at least half the SSI beneficiaries in the State. If the State has geographic variations, the lowest one will be used, and the SSI benefits (to determine the amount of coupon allotment) for each fiscal year will be the statutory benefit amount in effect for July of the preceding year.

These amendments will be effective October 1, 1981. An individual who is eligible for an additional payment in lieu of food stamps, and received food stamps for September 1981 in a greater amount, will receive the latter amount so long as it is greater and he is continuously eligible for SSI, and ending with the month he no longer lives in his own home, or moves out of the State in which he resides during September 1981. Any person who receives the additional payment will be ineligible for food stamps (or inclusion in a food stamp household). Any State which has cashed out food stamps (and includes the bonus value of food stamps in its State supplementation levels) shall pay only the difference between the additional payment in lieu of food stamps and the bonus value already paid through the State supplementation.

Part B -- Improvements in Standards for Determining Eligibility and Amount of SSI

Eligibility of Couples Living Apart

Section 202 of the draft bill would amend section 1614(b) of the Act, the section containing most of the definitions used in the SSI program, to modify the definition of eligible

spouse. An individual would cease to be the "eligible spouse" of another after they had been living apart for more than one calendar month, rather than six months as in existing law. The current six month period imposes real hardships upon separated couples; they are living apart and hence incurring the greater living expenses occasioned by separate residences, but they can only be paid at the lesser rate which is designed for a couple living together. The one month separation requirement would allow the couple's living arrangement to stabilize before the recomputation of SSI benefits is required but would not impose what seems to be an excessively protracted waiting period. During that one month period, the couple would be paid on the basis of whichever of their (separate) living arrangements yielded the higher amount.

In addition, this amendment would treat a husband and wife as living apart, even though they may be living in the same medical institution. Since institutional charges for members of a couple are assessed on an individual basis, and thus in such cases the rationale for a reduced SSI benefit for couples--economies of living together--is not applicable, the couple members should be treated as individuals for SSI purposes.

Eligibility of Individuals in Certain Medical Institutions

Section 203 of the draft bill would amend section 1611(e) of the Social Security Act to provide a one month delay for an institutionalized SSI recipient before either making him totally ineligible (if he is now residing in a public institution and Medicaid payments are not made on his behalf) or applying the reduced $25 payment standard (if Medicaid is making payments to the institution for the individual). Under present law, the sharp reduction in SSI benefits in the case of an individual who has come to rely upon them to maintain his residence outside of an institution can be extremely harsh when the period of institutionalization is not long. In such cases the recipient must continue to pay expenses in connection with his permanent residence so that he can return there. For this reason, continuing to compute payments under the same living arrangement assumptions as applied in the previous month, for a period of one additional month, is considered reasonable. This one month extension will only apply to individuals who received SSI for the preceding month and may therefore reasonably be assumed to rely upon the payment. This proposal is also intended to coordinate with the amendment made by the preceding section. If one member of a couple goes into an institution (and thus they are living apart),

they may continue to receive a couple's benefit for one more month. Thereafter the reduced standard would apply, but at the same time the couple could be treated as two individuals and the income of one would not count against the other.

Earned Income in Sheltered Workshops

Section 204 of the bill would provide for treating income received in a sheltered workshop setting as earned income in all cases for purposes of determining eligibility for and the amount of SSI benefits. This would correct the inequitable situation under current law in which sheltered workshop income of some SSI recipients must be treated as unearned income (and as such is subject to only a $20 per month exclusion) simply because the recipient is engaged in a rehablitation program and thus is not in an "employee" relationship with the workshop. Sheltered workshop income of SSI recipients who are not engaged in a rehabilitation program, and thus are employees, is treated as earned income and is subject to more liberal income exclusions ($65 per month plus one-half of the remainder).

Exclusion from Resources of Burial Plots

Section 205 would amend section 1613 of the Social Security Act to provide for the exclusion of burial plots from the resources of an individual. Such an exclusion would allow low income people, usually the elderly, to receive SSI benefits without being forced to choose between retaining the burial plot or a small amount of savings. There is often enormous resistance on the part of the aged to giving up a burial plot, especially when doing so would mean the person could not be buried at the same location as other members of his family.

Exclusion from Resources of Funds Set Aside for Burial Expenses

Section 206 would amend section 1613 of the Social Security Act, prescribing rules for the treatment of resources under the supplemental security income (SSI) progam, to provide for an exclusion from countable resources of amounts set aside to meet the burial expenses of an eligible individual or his spouse who is living with him. Each may exclude up to $1500 in a separately identifiable fund for burial expenses, but that amount must be reduced by the amount of any whole life insurance policies that have been excluded from resources, or irrevocable burial trusts, either of which would serve the same purpose. Further, if the amount set aside for burial expenses is used for another purpose, or any excluded cash surrender value is obtained by the individual, future SSI benefits will be reduced by a like amount.

Exclusion of Certain Real and Personal Property from Income

Section 207 of the draft bill would amend the SSI program to add to the list of exclusions from income unearned income in the form of real or personal property (1) which would be excluded from resources (e.g., a house which the individual inherits and thereupon moves into), or (2) which is not readily convertible to cash and is not in the form of food or clothing. It can be extremely harsh to reduce an individual's benefits in a month that he receives, for example, a gift or inheritance even though he can't use it to meet normal living expenses.

Also, it serves no program purpose to count as income property which will immediately be excluded from resources. The property would continue to be treated as a resource, subject to the overall limit on the allowable value of resouces. If it caused the total value to exceed the resource limit, the provision of section 1613(b), on disposition of resources, could then be invoked.

Underpayments to Ineligible Spouse of Deceased SSI Recipient

Under section 208 of the draft bill, the underpayment provision of the SSI program (section 1631(b) of the Social Security Act) would be amended to allow the correction of underpayments with respect to a deceased SSI recipient by making payment to his surviving spouse who was living with him at the time of death, regardless of whether the spouse is eligible for SSI.

Under the provisions of current law, such payments may only be made to a surviving eligible spouse. This restriction causes hardship for a surviving ineligible spouse who may have incurred debts providing for the needs of the SSI recipient prior to his death and expected to make payment from the SSI benefits of the eligible individual. Enactment of this proposal would alleviate the hardship caused when the ineligible spouse cannot receive the underpayment and would greatly enhance public understanding of the program.

Increased Payment for Presumptively Eligible Individuals

Section 209 of the bill would amend that provision of the Social Security Act which authorizes cash advances of SSI payments to meet cases of financial emergency. Under section 1631(a)(4)(A) of the Act, as presently in effect, payments may be made to a presumptively eligible individual

of up to $100 per month. This amendment would liberalize the provision in two regards: first, it would allow payment of up to the full amount of monthly benefits, and second, the amendment would permit such a payment to be made for three successive months. The amounts contained in the proposal are more realistic in light of the current cost of living and would allow the Secretary to be more responsive to the immediate needs of indigent individuals. However, this provision, as amended, would continue to be tightly administered as under present law so as to limit is applicability to individuals where there is a strong presumption of eligibility and who are facing clear financial emergencies.

In-Kind Remuneration

Section 210 of the draft bill would amend section 1612(a)(1)(A) of the Social Security Act to broaden slightly the definition of earned income. That provision presently refers back to the title II definition of wages, which does not include remuneration furnished in a form other than cash for agricultural or domestic service or service not in the course of the employer's trade or business. The effect of that exclusion, when carried over to the SSI program, is to require the treatment of such amounts as unearned income, with the resultant dollar-for-dollar reduction in SSI benefits (after the initial $20 per month disregard). There is no apparent reason for treating in-kind remuneration of workers in the SSI program differently from the in-kind earnings of other workers.

Continuation of Benefits for Certain Individuals Hospitalized Outside the United States

The present SSI law makes an individual ineligible for benefits for any month throughout all of which he is outside the United States. Section 212 of the draft bill would amend section 1611(f) to apply a special rule, consistent with a provision in the Medicare program, for SSI recipients receiving inpatient hospital services provided outside the United States. The amendment made by section 211 would provide that an individual will be eligible for SSI if he is outside the United States to obtain inpatient hospital services because the foreign hospital is closer to his home or more readily accessible than the closest adequate facility within the United States, or, in the case of emergency hospital services he was within the United States (or traveling between Alaska and another State) when the emergency requiring hospitalization occurred, and the foreign hospital was closer than the nearest alternative facility within the United States. This amendment is consistent with the general intent of the restriction of SSI eligibility to those within the United States, while making an exception for reasonable situations.

Extension of Special Income and Resource Provisions

Section 212 of the proposed bill would amend sections 1611(g) and (h) of the Social Security Act to extend the applicability of those special grandfathering provisions relating to income disregards for the blind and to resource limits.

The grandfathering protection would continue until the individual had been ineligible for either an SSI benefit or a State supplementary payment for six consecutive months. Under the present law, recipients who were converted from the superseded State administered programs are entitled to have the resource exclusions and, in the case of the blind, the income disregard rules, of those programs applied to them until the expiration of a six month period during which they are ineligible to receive SSI benefits. However, in some cases, individuals would (usually because of income) be eligible for a State supplementary payment and therefore on the program rolls continuously although ineligible for the basic Federal payment. It seems inequitable and without any program purpose to cause one group of recipients to lose its eligibility for grandfathering protection while preserving it for another group in almost identical circumstances.

Deletion of Term "Child"

Section 213 of the draft bill would repeal section 1614(c) of the Social Security Act, the definition of the term "child" for purposes of the SSI program, and make several minor conforming amendments. A "child" under current law is under 18, or if a student, under 22, and is neither married nor the head of a household. This term is then used in various places throughout title XVI; for example, there is a special definition of disability in the case of a child under 18, and special rules on the effect of a parent's income and resources on the eligibility of a child under 21. There seems to be no reason, however, for having these special rules apply to a "child" under some specified age rather than an "individual" under the same age. The primary adverse effect of the use of the term "child" comes about in the disparity of treatment of parents' income and resources between students and non-students, and that distinction seems unwarranted in the context of the SSI program.

Repeal of Mandatory State Supplementation

Section 214 of the proposed bill would repeal section 212 of P.L. 93-66, the requirement that States pay mandatory supplementation to maintain the December 1973 income levels of all SSI recipients who, for December 1973 (the last

month of the superseded State grant-in-aid programs), were recipients of State assistance. The requirement is a condition of continued Federal cost sharing in a State's Medicaid program.

Attempting to relate current payments to State standards in effect in 1973 is a task of enormous administrative complexity, and the relationship to current circumstances becomes increasingly tenuous as time goes on. This provision was intended as a transitional device to protect former State recipients from a loss of income. Now, however, States should be allowed to set standards for all recipients within their boundaries and apply them equally throughout.

Limitation on Eligibility for SSI of Persons who Dispose of Assets

Section 215 of the draft bill would amend section 1611(e) of the Social Security Act to preclude SSI eligibility in the case of an individual who transferred assets, without compensation if the assets (or portion thereof) transferred without compensation had a value of $3000 or more. The bar would apply with respect to transfers occurring within any 24-month period, beginning with the twenty-fourth month preceding application. The period of ineligibility ranges from 6 to 24 months (depending on the amount of uncompensated value). However, the prohibition would cease immediately upon the return to the applicant of the uncompensated portion of the assets, or the payment to him of their fair market value.

The effect of this amendment will carry over to Medicaid eligibility without further amendment of title XIX of the Act except in the case of States applying their 1972 Medicaid criteria, under the authority of section 1902(f) of the Act. Therefore, a brief amendment would be made to that section to assure that this rule would apply to eligibility for Medicaid in all States.

Rounding of Cost-of-Living Adjustments

Section 216 would amend section 1617 of the Social Security Act to provide for rounding the annual SSI benefit amounts to the nearest $12.00, or, in monthly terms, to the nearest dollar. Under present law, SSI benefit amounts are rounded to the next higher multiple of 10 cents. This amendment parallels the Administration's proposal to round monthly benefit amounts under title II of the Act to the nearest dollar and will therefore facilitate relationships between the two programs.

Part C -- Improved Administration of the SSI Program

Judicial Establishment of Fees for Representing SSI Claimants

Section 231 would add a new subparagraph (B) to section 1631(d)(2) of the Social Security Act to provide that when an SSI claimant obtains a favorable judicial decision, the court may set a fee for the attorney who represented the claimant. The fee can't exceed 25 percent of past due SSI benefits, and will represent the full amount which the attorney can charge for his services in connection with that judicial proceeding. Title XVI currently authorizes the Secretary to prescribe fees in connection with administrative proceedings; this amendment would bring the provisions of title XVI with respect to fees for representation of SSI claimants fully in line with current law under title II and XVIII.

Retrospective Monthly Accounting

Under current law, continuing eligibility for and the amount of SSI benefits are determined on a prospective quarterly basis. (Initial applications are considered on a monthly basis during the first quarter if they are filed in the second or third month). Of necessity, therefore, income (as well as other circumstances, such as living arrangements) affecting eligibility and amount of payment must be assumed, with subsequent corrective action required should the assumptions prove to be inaccurate. Section 232 would amend the relevant sections of title XVI, therefore, to provide that eligibility and benefit amount will be determined on a monthly (rather than quarterly) basis, and will be retrospective.

The amount of payment that will be made will be determined, therefore, after the close of the month for which it is made. Similarly, an application will be effective back to the first day of the month preceding the month in which it is actually filed. Special provision is made for the Secretary to waive the limitations on payment applicable to individuals in hospitals, nursing homes, or other medical institutions, in order to facilitate their leaving the institution and and receiving, in the month of leaving, an SSI payment in an amount appropriate to the new living arrangement. The Secretary is also given authority to prescribe rules for the first two months payments, in accordance with rules he would issue under a new paragraph. Under these regulations, first two months' payments will provide for an uninterrupted transition to

the retrospective accounting system and, with respect to factors affecting eligibility and benefit amount in the first two months, will allow the Secretary to take appropriate account of changes in an individual's circumstances that have recently occurred to assure that initial benefits reflect his current rather than past need for SSI.

Special provision is also made for a transitional SSI payment to be made in the first month for which the retrospective accounting method is effective. Since no benefits would otherwise be paid in that month, a transitional payment, to each individual eligible for SSI for the preceding month, will be made. The amount of the transitional payment will be the same as the amount the beneficiary received for the preceding month, plus, if the (retrospective) payment will be made later than the tenth day of the following month, that amount pro rated by the fraction of the next month elapsing before payment will be made. The transitional payment will be treated as an SSI payment, and the increase because of the elapsed days in the following month must be disregarded from income under any other Federal or State program.

Limitation on Federally-Administered Variations in State Supplementation

Section 233 of the draft bill would amend section 1616 of the Social Security Act the section dealing with optional State supplementation and agreements for Federal administration of that supplementation. The amendment would prescribe the specific situations in which the Secretary would be authorized to administer varying amounts of optional supplementation. Any changes from the basic amount set by the State, other than those specified in the revised subsection (c)(2) of section 1616, could not be included within the agreement for Federal administration.

Under the proposed amendment, the Secretary may administer a basic amount of supplementation for an individual living independently in his own place of residence; in addition, he may vary that amount at the State's request to take account of the situation in which an individual:

1) lives in the household of another,
2) lives with an essential person whose status has been grandfathered by section 211 of P.L. 93-66,
3) lives in his own residence with his eligible spouse,
4) lives in the household of another with his eligible spouse, or
5) lives with an eligible spouse and an essential person.

With respect the basic amount for individuals living independently, and to each of the five differing amounts based on living arrangments, there may be two variations of each of those amounts (for a total of three amounts per living arrangement) in recognition of as many as three geographic classifications within each State.

It should be noted that there would be no Federally administered variation allowed from the basic supplementary payment amount by reason of an individual's being aged, blind, or disabled.

In addition, a new paragraph (3) would be added to subsection (c) to preclude the administration by the Secretary of a supplementary payment to any individual to whom the $25 personal needs allowance applies. The large number of variations which the Secretary has been asked to administer by some States has greatly added to the administrative complexity of the SSI program. To impose outside limits on the number and types of variations with which he will have to deal should allow reduced error rates and generally facilitate the administration of the SSI program.

Elimination of Requirement for Representative Payment of SSI to Drug Addicts and Alcoholics

Section 234 would delete the requirement that a disabled or alcoholic cannot receive the SSI benefits for which he is eligible directly, but rather must have payment made on his behalf to a representative payee. The effect of repealing this provision is to allow payment to be made on the same basis of the same considerations as are aplied to any other recipient. Individual judgments would be made by the Secretary, and in those cases where it is found appropriate to safeguard the individual's interest, payment could be made to a representative payee. However, that result would not be mandated. This result would contrast with present law, where payment can only be made through a representative some situations in which officials of the facility at which the individual is receiving treatment assert that direct payment would be consistent with and enhance the individual's course of treatment.

Adjustment of Retroactive Benefits under Title II on Account of Advances of SSI Benefits

Section 235 of the draft bill would add a new section 1132 to the Social Security Act. This new section will allow the Secretary to offset, against retroactive benefits paid under title II, amounts of SSI benefits paid for the same period for which the retroactive title II payment is eventually

made. The retroactive payment would be reduced by the amount of the SSI benefits which would not have been paid had there been timely payment made under title II, and the reduction will go to reimburse the general funds for expenditures for those excess SSI payments. With this mechanism, each program will bear its true share of the costs of benefit payments to an individual. Under current law, an individual eligible under both the OASDI and SSI programs whose determination of eligibility for OASDI is delayed can in some cases receive a windfall--i.e., full payment under both programs for the same months--since SSI would have been paying benefits without any reduction because of OASDI. In situations where State supplementary payments were also made, but would have been smaller (or zero) had the title II payment been made on a monthly basis from the time of first entitlement, the Secretary will reimburse (or credit) the State for its pro rata share of the adjustment.

This provision will allow a more accurate assessment of relative program costs and eliminate windfall retroactive title II benefits which reward individuals merely because the first payment under title II was delayed.

Replacement of Benefit Checks

Section 236 of the draft bill would amend the payment section of the SSI law to provide authority for the prompt replacement by the Secretary of benefit checks which have been lost, stolen, or destroyed or, for any other reason, not delivered to the recipient within two days following the usual delivery day. The Secretary would be directed to issue regulations specifying procedures for replacement. The legislative language specifies that the replacement request must be made within the same month for which the missing check was issued. The regulations are also to specify the procedures which will be followed to reconcile accounts with the Treasury Department. This authority will allow the Secretary to be more responsive to the immediate and often urgent need for funds of SSI recipients.

Mandatory Pass-Along of SSI Benefit Increases

Section 237 would make certain technical amendments to section 1618 of the Social Security Act, the section requiring States to pass along to SSI recipients increases in the Federal benefits. The amendments made by subsection (a) would delay the period with respect to which the pass-along applies so that these technical amendments would be applicable to the period for which the pass-along is in effect; under the amendment it would apply to increases occurring after

June 30, 1979. Also they would eliminate the requirement that there be an agreement, and merely have its condition for Medicaid matching stand on its own. Finally, a fixed (rather than sliding) time period would be provided for establishing the 12 month total of expenditures which form the basis of the alternate condition States can meet under this section, i.e., rather than maintaining levels of benefits, it can maintain total expenditures for supplementation. The period would be fixed as the 12 months beginning July 1976, to maintain equivalence with the December 1976 date that sets the benefit rate that may be maintained as the primary way of passing along benefit increases.

Subsection (b) would give a State the option of changing from cash supplementation (paid directly to individuals) to vendor payments in the case of individual residing in domiciliary or personal care facilities. If a State makes such a change, the amount of the vendor payments to the facilities will be subtracted from the State's total expenditures that must be made in determining whether it has met the pass-along condition of section 1618.

Two new subsections would be added to section 1618. Subsection (c) prescribes that the penalty will not be invoked if the Secretary finds that the State had made reasonable efforts to comply with the pass-along conditions, but fell short of maintaining its total expenditures, to permit the State to make additional payments after the close of the relevant 12-month period. The Secretary would also prescribe by regulation the criteria for determining that the State was making continuing "reasonable efforts".

Subsection (d) specifies that if Federal participation under Medicaid is to be withheld, by reason of the State's failure to make reasonable efforts to comply with the pass-along requirements, the Secretary shall thereafter withhold Medicaid payment otherwise payable until he has recovered the amount paid under title XIX for the period for which the State failed to meet the pass-along conditions.

Deletion of Obsolete Reference

Section 238 of the draft bill would delete the cross reference to section 205(f) of the Social Security Act which appears in section 1631(d)(1) of the Act. Section 205(f), regarding witnesses who give testimony which can be used against them, was repealed by the Crime Control Act of 1970 (P.L. 91-452).

Correction of Incorrect Reference in P.L. 92-603

Section 239 amends section 305(b) of the Social Security Amendments of 1972 to correct a cross reference contained therein. Section 201(g)(1)(A) of the Social Security Act contained the authority for reimbursing the Trust Funds for portions of administrative expenses attributable to SSI. In 1976, this provision was redesignated as section 201(g)(1)(B), but the reference contained in section 305(b) of P.L. 92-603 were not conformed.

TITLE III -- AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

Limitation on Period Within Which Claims for Reimbursement Must be Filed

Section 301 would add a new section 1133 to the Act to prescribe express time periods within which claims for Federal reimbursement under the public assistance programs (including for this purpose Medicaid and social services) must be made. The new section would require that Federal reimbursement would not be available unless the claim were made within the two fiscal years following the fiscal year in which the expenditure occurred. Standards are also prescribed (with discretion in the Secretary to allow variations at the request of the State) for determining when an expenditure is made.

Consolidated Account for Administrative Expenses

Section 302 of the draft bill would amend title VII of the Social Security Act by adding a new section, authorizing expenditures from the Trust Funds for carrying out titles II and XVIII (authority currently contained in section 201(g)(1) of the Social Security Act), and authorizing the transfer of amounts from the Trust Funds or from the general fund of the Treasury into a consolidated account for administering all programs for which the Social Security Administration and the Office of Child Support Enforcement are responsible. Transfers into the consolidated account will be made originally on the basis of estimates; however corrections will be made throughout the fiscal year, no less frequently than quarterly, on the basis of actual experience to assure that each Trust Fund and each general fund program bears only its appropriate share of the administrative costs. A final accounting will be made after the close of the fiscal year and amounts transferred or credited, so that each source of funding has been repaid, with interest, for any amounts with which it should not have been charged. If this had not occurred fully by the close of the following fiscal year, the authority to use the consolidated account in this way will cease to exist.

Research and Demonstration Authority Under the Social Security Act

Section 303 makes several amendments to sections 1115 and 1120 of the Social Security Act, pertaining to research and demonstration projects under the Act.

Subsection (a) extends to part D of title IV (the child support enforcement program) the authority to waive plan requirements and limitations on matching in order to conduct projects to promote the objective of the assistance titles.

Subsection (b) would raise from $4 million to $20 million the amount available to the Secretary to make Federal payments for costs under section 1115 demonstrations that would otherwise have to be met from non-Federal sources.

Subsection (c) amends section 1120 of the Act to delete the requirement that all research and demonstration projects under the Act be approved by the Secretary or Under Secretary, personally, if the funding is all Federal money.

Improved Financing for the Territories

Section 304 makes several amendments all designed to make permanent improvements in the financing of the assistance programs in the territories. Subsection (a) would provide, beginning in fiscal year 1980, a permanent matching rate of 75 percent in the assistance programs. Subsection (b) makes the necessary amendments to section 1108 to double the ceilings that have been in effect for each year since 1972 (with the exception of 1979, for which year only the Tax Reform Act tripled the ceilings). The section also makes express provision for the Commonwealth of the Northern Mariana Islands.

Subsection (c) makes the ceilings on payments to the territories subject to a new subsection (e) of section 1108, that would, in effect, impose a maintenance of effort requirement. The maximum amount available for payment to a territory would be reduced by any decrease in that territory's expenditures for cash assistance from the amount it spent in fiscal year 1978.

Support of Immigrants

Section 305 of the draft bill would amend the Immigration and Nationality Act; subsection (a) would add a new section 216 to that Act to require that in the case of

an immigrant seeking admission to the United States and relying upon financial support from a sponsor, the sponsor must execute a legally enforceable agreement to furnish a specified level of support for 5 years following the immigrant's entry into the United States. Such an agreement would not be required from immigrants, or classes of immigrants, designated by the Secretary of Health, Education, and Welfare after consulting with the Secretary of State or the Attorney General, as refugees.

The sponsor providing the support agreement must be a citizen or an alien lawfully admitted for permanent residence. He must furnish evidence of his ability to support, and must agree to provide income sufficient to keep the immigrant from becoming eligible for assistance under Federal, State, or local assistance programs based on need, or publicly funded assistance for routine medical care (as defined by the Secretary of Health, Education, and Welfare).

The agreements can be enforced by the United States or by a State or local agency providing assistance to the immigrant; suit may be brought in Federal district court when the amount in controversy exceeds $10,000 (otherwise the suit must be brought in any other court of competent jurisdiction. Suit may be brought to enforce support or to recover assistance already furnished.

If public assistance is furnished to an immigrant with respect to whom there is an enforceable support agreement in effect, and efforts to secure support under such an agreement are unsuccessful, the receipt of assistance may constitute grounds for deportation.

The new section would state expressly that the support agreement is unenforceable under any of the following circumstances: the immigrant is under age 65 and became blind or disabled after entry, the sponsor dies, the sponsor is adjudicated bankrupt, or the sponsor cannot fulfill the agreement because of changes in his financial circumstances that could not be foreseen when he undertook to provide support.

The head of any agency providing support is directed, notwithstanding any other provision of law, to furnish information necessary to the Attorney General concerning their provision of assistance and efforts to enforce support

agreements as he needs to carry out the Immigration and Nationality Act. Similarly, the Attorney General will provide information (including a copy of the support agreement) to any agency administering a program of public assistance furnishing benefits to the immigrant (or seeking to secure support for him).

These amendments would apply to immigrants applying for admission after the ninetieth day following the date of enactment of this draft bill other than those who, sixty or more days before the effective date, had obtained affidavits of support.

Conditions Governing Availability of Certain Federal Records

Section 306 amends title XI of the Social Security Act, effective upon enactment, to add a new section 1134 containing two informational cross references. Subsection (a) cites the reader to section 6103 of the Internal Revenue Code of 1954 for rules governing disclosure of certain return information in the files of the Social Security Administration for purposes directly connected with the administration of Social Security Act programs providing cash or medical assistance. The rules governing disclosure are contained in the amendments made by the following section of this bill. Subsection (b) of the new section contains cross references to the authority for State unemployment compensation agencies to provide information necessary for the administration of those programs. To better carry out these changes, amendments are made to to title III of the Social Security Act, to assign responsibility for sharing wage information to State agency administering the State unemployment compensation (and to relocate the amendments to this effect made by section 508 of P.L. 94-566 and to make conforming changes). This section repeals section 411 of the Act, since all disclosure would be under the Internal Revenue Code, and makes conforming amendments to two other sections of the Act.

Disclosure of Tax Return Information

Section 307, to assist in eligibility and benefit determinations under the specified State plans approved by the Secretary of Health, Education, and Welfare under the Social Security Act, or in connection with the SSI program, and to institute effective quality control systems provides for the disclosure of certain tax return information to the Department of Health, Education, and Welfare and to State agencies administering the programs of aid or medical assistance under title I, IV (part A), X, XIV, XVI, or XIX of the Social Security Act.

New paragraphs would be added to section 6103( ) of the Internal Revenue Code of 1954, dealing with disclosure of information for purposes other than tax administration, authorizing the Social Security Administration to disclose information it has already received (under subsection ( )(1) or, in connection with annual reporting, under section 232 of the Social Security Act), to other officials of the Department of Health, Education, and Welfare or to State agencies (but subject to limitations described below) in order to determine eligibility or benefit amount under the cash or medical assistance programs assisted under the Social Security Act. (Paragraph (c) of section 6103 would be similarly amended so that such information could be disclosed in connection with the child support enforcement program.) However, information can only be disclosed to the extent that it is necessary for these purposes, as determined by the Secretary of Health, Education, and Welfare. This determination must be contained in regulations which, while not specified in the bill, it is understood will be formulated in accordance with the rulemaking procedures, including notice and opportunity to comment, required under 5 U.S.C. 553.

The remainder of this section comprises conforming amendments to other related provisions of the Internal Revenue Code of 1954, including the requirements for safeguarding disclosed information.

TITLE IV -- CHILD SUPPORT ENFORCEMENT

...

Collection of Support for Certain Adults Receiving AFDC

Section 401 of the bill would make a series of amendments to part D of title IV of the Social Security Act to the end that State child support agencies would be responsible for collecting support, in those cases in which that support obligation has already been established, for adult AFDC recipients. Amounts collected would be subject to the same rules regarding distribution and similar matters as are collections of child support.

Child Support Collections for Non-AFDC Families

Section 402(a) of the bill would amend section 455(a) of the Social Security Act to make permanent the authority to use Federal funds by State child support agencies to make collections on behalf of non-AFDC families.

Subsection (b) would amend section 454(6) of the Act to require (rather than allow) the imposition of a fee for collection services for these families. The fee would be fixed at 10% of the amount collected and withheld by the agency from the collection before the balance is distributed to the family. However, the amendment would specifically preclude imposing the fee where to do so would make the family eligible for AFDC.

Amendments Regarding Incentive Payments

Section 403 of the draft bill would revise section 458 providing for incentive payments in relation to the amount of support collected. The revision would eliminate incentive payments in interstate cases (because of the enormous amount of administrative complexity involved), and make States (in addition to political subdivisions, as in current law) eligible for incentive payments. However, all incentive payments (to the States and to the political subdivisions) would be paid from collections before any distribution is made to the Federal or State governments, rather than having the full cost of the incentive payments taken from the Federal share of collections.

Incentive Payments to Tribal Governing Bodies

Section 404 of the draft bill would specifically include tribal governing bodies as local government organizations eligible for incentive payments.

Three Months' Extension of AFDC Eligibility

Section 405 of the draft bill would amend part A of title IV (AFDC) to afford a State the option of disregarding, for up to three months, the excess of support collections paid the family for that month. Thus, even though the amount collected for one or two months to meet a monthly obligation might be sufficient to make the family ineligible for AFDC, the State would have the option of keeping the family in the AFDC program until a stable payment pattern had been established and could reasonably be expected to be continue. Where the State did not choose to exercise this option, the collection would go directly to the family, as under existing law.

Corresponding changes would be made in part D of title IV. Payment on the support obligation would be made to the State (which had adopted the AFDC disregard option) during the period to which the disregard applied. The distribution

provision would also be amended, allowing States to retain amounts equal to AFDC payments during this period; in this way neither the State nor the individual would be worse off by reason of the decision to let the family remain on the AFDC program for up to three extra months.

Additionally, minor clarifying amendments closely related to the new distribution provisions would be made to section 457 (distribution of collections) to make explicit the distinction between payments on the current month's obligation, and those with respect to earlier periods. These technical amendments would necessitate no change in the existing program policies or in the administration of the child support program.

Method of Determining Reimbursement of the Federal Government

Section 406 of the draft bill would specify that the Federal share of reimbursement from child support collections for AFDC previously paid to the family would be based upon the Federal AFDC matching rate for the quarter in which the collection is distributed. Currently the law requires that Federal reimbursement be calculated on the basis of the rate in effect when the AFDC payment was made. The change made by the amendment would provide a simpler and more practical way to determine reimbursement.

Method of Payment for Support Collection Services

Section 407 of the proposed bill would add a new subsection to section 455 to prohibit advances of Federal funds to a State child support enforcement agency unless a full and timely report of collections and expenditures was made to the Secretary. The report would have to cover all prior quarters other than the most recent two quarters preceding the one for which advances of funds are sought. Additionally, section 403 (payments to State AFDC agencies) would be amended to reduce the amount payable to a State under that program by the amount due to the Federal government as its share of collections in accordance with section 457.

APPENDIX

Major Cost and Savings Provisions of AFDC Amendments
(Shown without offsets due to Work and Training

- o National Minimum Benefit. The proposal requires each State to provide benefits in the AFDC program which, when combined with Food Stamp benefits, equal at least 65 percent of the poverty level. This provision increases benefits and recipient levels in thirteen States and is estimated to cost the Federal government $374 million in FY 1982.

- o Eligibility to the Breakeven. The current AFDC Program has separate income tests for determining initial eligibility and for calculating benefits once eligibility has been established. Only work-related expenses are currently allowed to be deducted from countable income in determining initial eligibility while an additional $30 per month plus 1/3 of the remaining amount is deducted from earnings in calculating benefits. The proposal requires States to use all deductions both in determining initial eligibility and calculating benefits for AFDC. This is estimated to add $149 million to FY 1982 Federal costs.

- o Disregard Changes and Income and Assets Definitions. The proposal makes numerous changes in the definitions of income and assets and the amount and nature of deductions from income in the AFDC program. Income and asset definitions are moved toward conformity with the Food Stamp Program. Asset limits will have to be set between $750 and $1750 by the States. The initial earnings disregard is increased from $30 to $70. Non-child care work-related expenses are standardized at 20 percent of earnings. Child care is taken as a separate deduction with a maximum of $150 per child per month. As a result of changes in the Internal Revenue Code, EITC benefits are included in countable income as earnings, except for purposes of calculating the standardized work-related expense. The general disregard of 1/3 of remaining earnings is taken after initial disregards, non-child care work-related expenses, and child care expenses are deducted from earnings (i.e., on the basis of "net" income). An additional income disregard is mandated in States where combined AFDC and Food Stamp benefits are below 75 percent of the poverty level. Finally, the proposal mandates consolidation of payments standards and maximum payable amounts in every State. The estimated net effect of these provisions on FY 1982 Federal cost is a reduction of $133 million.

- Monthly Reporting, Retrospective Accounting and Payment of AFDC to Date of Application. The proposal mandates each State to require monthly reports on income, family status, and assets from AFDC recipients. It also requires States to determine eligibility and benefits on the basis of the recipient's income for the previous month (except for the first month when current month's income may be used). The proposal requires States, in conjunction with these changes, to pay benefits from the date of the recipient's application if the applicant is found to be eligible. The first two changes result in Federal cost reductions of $176 million primarily because ineligible units are removed from the AFDC rolls in a more timely manner. The third provision increases Federal costs by $113 million since there is currently a lag in many States between initial application and the date of initial entitlement. Requiring payment from the date of application increases benefits for all families subsequently certified to be eligible for AFDC. The estimated net impact of these provisions is a Federal cost saving of $63 million in FY 1982.

- Inclusion of Step-parents Income. The proposal requires that the income of step-parents who maintain households for non-dependent children in the AFDC Program be included in countable income for purposes of determining benefits after certain disregards. This provision is estimated to save $94 million in FY 1982 Federal costs.

- Mandate of the AFDC-UP Program. Twenty-four States currently have no AFDC Program for two-parent families with an unemployed father. The proposal mandates a two-parent family program in all States and results in an estimated increase of $62 million in FY 1982 Federal costs.

- Other AFDC-UP Program Changes. In addition to the mandate of the AFDC-UP Program, several changes have been made in rules for determining eligibility and benefits. The requirement that applicants must have earned at least $50 in six of the previous thirteen quarters of a year has been eliminated. The current program also limits the father in a UF family to 100 hours of work per month in order to retain eligibility. This limitation on hours worked will be replaced, by regulation, with a gross earnings limit of $6000 per year, or $500 per month, in 1979 dollars and will be applied to the principal earner. The thirty-day unemployment period has been eliminated. The proposal also allows only work related expenses as a deduction from countable income for purposes of determining eligibility and benefits. The estimated net effect of these changes is an increase of $143 million in FY 1982 Federal costs. This cost assumes that the implementation of these changes will result in a 30% increase in the participation rate of two-parent families in the AFDC-UP Program.

- Increase in Matching Rate on Benefits. The proposal decreases the current State share of AFDC benefits by 10 percent to determine the new Federal matching rate on basic (single-parent) AFDC benefits and by 30 percent to determine the new Federal matching rate on AFDC-UP benefits. This increases the current national average matching rate for both programs from about 54 percent to about 60 percent (59 percent in the basic AFDC Program and 68 percent in the AFDC-UP Program). This change is estimated to result in a transfer of $723 million in AFDC costs from State governments to the Federal government in FY 1982.

- Increases in Administrative Costs and Matching Rate. The proposal affects administrative costs in several ways. Caseload increases and the monthly reporting requirement are expected to increase costs, as are the Federal financial incentives for automation of record-keeping and certification procedures and for improved management. Standardization of work-related expenses and of income and assets definitions and the shorter durations caused by the work and training program are expected to save on administrative costs. The net effect of these provisions on FY 1982 Federal costs is estimated to be an increase of $47 million.

- Hold Harmless Payment to the States. The proposal contains a hold harmless provision is intended to help States offset cost increases imposed by changes such as the national minimum, eligibility to the break-even, the extension of the AFDC-UP Program, and the impact of the AFDC caseload increases Medicaid. It will also assure fiscal relief of at least five percent of the State share of pre-reform AFDC benefits. Hold harmless payments are estimated to be $255 million in FY 1982 before the decreases caused by the work and training provisions.

- Expansion of the WIN Tax Credit. Expanded eligibility for the AFDC Program and the increased awareness of exisiting program provisions associated with the implementation of this proposal are expected to increase the use of the WIN Tax Credit by employers. This is estimated to result in a total of 20,000 net new private sector placements for AFDC recipients. These placements will cause increases in direct outlays for the tax credit and savings in AFDC and other programs because of increased wages. The net cost of this expansion of the WIN Tax Credit is estimated to be $155 million in FY 1982.

- Increases in Grants to the Territories. The proposal includes an increase in the matching rate for AFDC benefits in Guam, Puerto Rico, and the Virgin Islands. This is estimated to increase Federal costs by $29 million in FY 1982.

- o Emergency Needs Block Grant. The proposal replaces the existing Emergency Assistance Program with a fully Federally-funded block grant of $200 million. The net Federal cost of this change is estimated to be $161 million in FY 1982.

- o Indirect Effects on Other Programs. The increase in benefits for the AFDC population will result in decreased costs in the Food Stamp Program since AFDC benefits are counted as income in determining Food Stamp benefits. Similarly, the increase in the AFDC caseload will result in increases in Medicaid costs since AFDC recipients are categorically eligible for Medicaid payments. The net cost of these Food Stamp and Medicaid effects is estimated to be $19 million in FY 1982.

Earned Income Tax Credit

The proposal expands the existing Earned Income Tax Credit (EITC). EITC benefits will be equal to 12 percent of earnings up to $5000 in annual 1982 earnings, $600 for earnings between $5000 and $7000. They will be reduced at a rate of 15 percent for earnings above $7000. Thus, the maximum benefit increases from $500 under current law to $600 in 1982, and the breakeven point is extended from $10,000 to $11,000. This expansion is estimated to add $759 million to FY 1982 Federal costs.

Cash-Out of Food Stamps for SSI Recipients Living Alone

The proposal substitutes a cash payment for Food Stamp coupons for Supplemental Security Income(SSI) recipients who live independently. Since it is estimated that less than 50 percent of such SSI recipients currently eligible for Food Stamps actually participate in the Food Stamp Program, the net effect of this proposal will be to increase payments to SSI recipients. The gross cost changes include increases in the SSI Program brought on by the cash-out payments and to a small set of payments necessary to maintain Food Stamp benefit levels for SSI recipients currently participating in the Food Stamp Program with high shelter deductions("grandfathering"). Gross costs are estimated to total $625 million in FY 1982. The offsets to these gross costs include benefit savings in the Food Stamp Program itself that will amount to $222 million in FY 1982. The estimated net Federal cost of this proposal in FY 1982 will be $403 million.

SUMMARY OF FY 1982 FEDERAL COSTS OF THE AFDC AMENDMENTS BY COMPONENT*
(dollars in millions)

National Minimum	+$	374
Eligibility to the Break-even	+	149
Disregard Changes, Counting the EITC as earned income and Expansion of Assets Limits	-	133
Mandate of Monthly Reporting and Accounting and of Eligibility from Date of Application	-	63
Inclusion of Income from Step-parents	-	94
Mandate of the AFDC-UP Program	+	62
Other Changes in the AFDC-UP Program	+	143
Increase in the Matching Rates on Benefits	+	723
Increases in Administration Costs	+	47
Hold Harmless Payments to the States	+	255
Net Cost of Expansion of WIN Tax Credit	+	124
Increases in Grants to the Territories	+	29
Net Costs of Emergency Needs Block Grant $200 million Block Grant less $39 million savings from Current Emergency Assistance Program)	+	161
Net Change in Medicaid and Food Stamp Programs Due to Expansion of AFDC Benefits	+	19
Total Cost of Cash Portion of Proposal	+$1,796	

FY 1982 COST OF EXPANDED EARNED INCOME TAX CREDIT
(dollars in millions)

Net Cost of Expansion	+$	759

SUMMARY OF FY 1982 COST OF FOOD STAMP CASH-OUT FOR SSI RECIPIENTS LIVING ALONE
(dollars in millions)

SSI increase due to inclusion of cash-out benefits	+$	610
Grandfathering of current SSI/Food Stamp recipients	+	15
Savings in Food Stamp benefits due to cash-out	-	222
Net Costs of Cash-Out Provision	+$	403

* These costs are shown without offsets due to the Work and Training Program.

DISABILITY INSURANCE AMENDMENTS OF 1979

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 310 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 310

Resolved, That upon the adoption of this resolution is shall be in order to move, clause 2(l)(5)(B) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against sections 4 and 13 of the bill for failure to comply with the provisions of clause 5, rule XX are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendmentns to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, and an amendment printed in the Congressional Record of June 5 by, and if offered by, Representative Simon of Illinois, which shall not be subject to amendment. At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this rule brings up an intensely controversial bill out of the Committee on Ways and Means. As chairman of the Committee on Rules, I found the bill so controversial, in the first instance, that I delayed its consideration for some time so that the opponents of certain provisions of the bill would have an opportunity to express their opposition. Having done that, and having been fair to those opponents, I then turned around and saw to it, as best I could, that the bill came out, because I believed that the Committee on Ways and Means and, particularly, its subcommittee, chaired by the distinguished gentleman from Texas (Mr. PICKLE), deserved their day in court, at least to the extent that they would be granted a rule, and by a very narrow vote the rule was granted.

The matter is intensely controversial, and the controversy is limited, as I understand it, to the question of certain caps on certain kinds of disability provisions.

I think the Members will be well-advised to listen to the debate on the rule, because it is going to go into the substance of the bill.

My impression is that the people who oppose certain provisions strongly support other provisions. So you have an extraordinarily difficult decision to make. I had people whom I trusted on both sides of the issue tell me very intensely that they were 100-percent right, and since I trusted both sides, I was very confused. Frankly, I am still confused. But since the committee, by a very substantial majority, reported the bill out, I think it deserves to be heard; and I propose to yield most of the time on the rule to members of the Committee on Ways and Means who are proponents of the bill. Pending that, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LATTA asked and was given permission to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, at the outset let me say that it is good to have our friend, the gentleman from Missouri (Mr. BOLLING), back with us today.

Mr. Speaker, this rule provides for 1 hour of general debate on H.R. 3236, the Disability Insurance Amendments of 1979. No amendments will be in order except for committee amendments which are not amendable and an amendment to be offered by the gentleman from Illinois (Mr. SIMON) which also is not amendable.

The Simon amendment delays the implementation of section 13 of the bill by 1 year. That section would reimburse state vocational rehabilitation agencies for having rehabilitated a disabled recipient only if that recipient has successfully returned to work. This provision would become effective in fiscal year 1981 under the reported bill.

The rule does not provide for pro forma amendments, so on the Simon amendment, there will be only 5 minutes of debate in favor and 5 minutes of debate in opposition. Under this rule, it is not going to take long to complete action on this bill.

The rule also waives points of order for failure to comply with two requirements of the House rules. First, points of order are waived for failure to comply with the requirement in rule XI that the committee report bear upon its cover an indication that a cost estimate prepared by the Congressional Budget Office is included. In this case the committee report includes a Budget Office cost estimate. The problem is the failure to indicate this on the cover of the report.

Second, points of order are waived against sections 4 and 13 of the bill for failure to comply with the rule prohibiting appropriations on a legislative bill. These sections transfer existing funds to new purposes, and technically this constitutes appropriations for new purposes.

Mr. Speaker, the purpose of the bill made in order by this rule is to provide for work incentives and improved accountability in the disability insurance program. For fiscal year 1980, the Congressional Budget Office estimates that this bill will reduce outlays from the disability insurance trust fund by $17 million. Unfortunately, the first budget resolution assumed savings of $62 million for fiscal year 1980. Therefore this bill saves $45 million less in fiscal year 1980 than the first budget resolution projected.

By 1984, savings under this bill could be in access of $1 billion.

□ 1600

Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. LOTT).

(Mr. LOTT asked and was given permission to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, very briefly, I do want to rise in support of the adoption of this rule and of this legislation.

I usually have a lot of reservations about modified closed rules, if that is what we call them, but this is the standard way we do consider legislation that deals with social security-type amendments, so there is nothing new about that. I think it is the only way to get this legislation up and get it considered reasonably and quickly. The subcommittee and the committee have done an outstanding job on this bill, particularly the gentlemen from Texas (Mr. PICKLE and Mr. ARCHER). There are many good features in this legislation. It doubles the trial work period that is now allowed.

It eliminates the second waiting period for medicare coverage. It allows the deduction of all work expenses related to the disability before computing continued eligibility for benefits.

There are a lot of good features in this legislation. While we had some difficulty getting it out of the Rules Committee, I think we finally did take the right action. It was passed by voice vote by the Committee on Ways and Means.

I hope we will act quickly on the rule and adopt this good legislation.

I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I thank the gentleman. I will not take the 5 minutes.

Let me talk to the Members of this House. This bill culminates 5 years of very intensive review of the disability program by the Committee on Ways and Means.

The bill was passed out of the committee unanimously, a rare event. It seldom happens. We bring to the Members a rule. It is the normal kind of rule that we have when we bring up a social security bill.

Now, there are some who want to defeat this rule because they have been told the bill hurts old people and those already receiving disability benefits. That is absolutely not true.

This bill does not affect anyone receiving survivor or retirement benefits. Anyone under the program now is not affected. The bill does not affect anyone now on the disability roll.

Now, some want to defeat the rule because they want to remove the cap on benefits.

Let me make a plea. Social security was never meant to cover 100 percent of a worker's pay before disability. It was never meant to do that. How can we justify not having some kind of a cap? This is an eminently fair and reasonable cap approved by all of the members of the Committee on Ways and Means when we passed it out of the committee.

Now, Mr. Speaker, disability benefits are designed to help workers get through a period of disability, along with savings, private pensions and insurance, and it is in line with that basic objective of the social security system that we bring the Members this bill.

Nobody benefits from poor social security policies. It is bad economic policy in the face of climbing inflation and climbing deficits. This is an eminently fair and reasonable bill.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for yielding.

I would like to support the position taken by the distinguished chairman of the committee. I think this is a good bill. It is a good rule. The bill constitutes very modest reform of a portion of the social security system that has needed reform for a long time. There is nothing punitive about it. It has the effect, in my view, of rationalizing the rules relative to disability to a substantial degree. I think it should have the strong support of the House, and I want to urge all my colleagues, as the chairman has done, to support the rule and the bill itself.

We will have more to say during the debate in support of the reasonableness of this proposal. If we cannot accept this degree of reform in an area of social security that has needed reform for some time, then I will tell my colleagues the future of the social security system itself is in serious doubt.

Mr. ULLMAN. I thank the distinguished ranking minority member.

I urge the Members of this House to support a fair and reasonable and sound proposal to do a little tightening where it is very much needed in the disability social security program.

I yield back the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. GIAIMO).

(Mr. GIAIMO asked and was given permission to revise and extend his remarks.)

Mr. GIAIMO. Mr. Speaker, I rise to provide a budgetary perspective on the Disability Insurance Amendments of 1979 (H.R. 3236).

This bill was assumed in the first budget resolution for fiscal year 1980. The budgetary impact of the bill in fiscal year 1980 is modest, because the benefits of current recipients would not be affected. Over time, however, the bugetary impact of this bill would be substantial: by fiscal year 1984, annual outlay savings would be $1.1 billion.

I personally believe that the members of the Committee on Ways and Means who unanimously reported this bill are to be congratulated for addressing in a fair and responsible manner the problems created by an overly complicated benefit structure which appears to discourage work. I will defer to the experts on the Ways and Means Committee to explain the specific provisions of this bill. Instead, I would like to provide some budgetary perspective on the legislative savings assumed in the bill.

In January of this year, the President proposed a number of benefit changes to the social security program which would have reduced spending and the deficit by $609 million in fiscal year 1980. Because the specific proposals in the President's package were highly controversial, most of us rejected the proposals out of hand.

The Committee on Ways and Means recommended in its March 15 report that we assume outlay savings of $62 million, which was the cost estimate at that time of the bill before us today. This target savings was included in the first budget resolution. Responsible reviews of the benefit structure are an indispensible component of the issue of social security financing because the social security trust funds can be kept solvent not only by increasing income but also by decreasing outgo.

Next year, we will be debating the financing of the social security system. There is a general consensus emerging that the social security tax rates which

we approved just 2 years ago are too high. As a result, many people are proposing general fund subsidies to the social security trust funds. Unfortunately, because of the current economic situation, the social security trust funds would be in serious trouble within a few years even if these tax rates were to remain in effect. On July 31, 1979, Dr. Rivlin wrote me indicating that CBO projects the combined balances of the old-age and survivors and disability insurance funds may decline by fiscal year 1984 to 12.4 percent of outlays. In contrast the combined balances in the trust funds are currently about one-third of outlays. I ask unanimous consent that the letter from Dr. Rivlin to me on this subject be inserted in the RECORD following this statement.

I would caution my colleagues that general fund financing is not a panacea. While general fund revenues may well be a way to reduce the burden of the payroll tax, we will only be substituting deficit financing for payroll tax financing unless there are enough general fund revenues to pay the subsidy without borrowing. If we rely exclusively on general fund subsidies to keep the trust funds solvent because we are not willing to examine the benefit structure to insure that it remains relevant to the needs of American society, we will be passing onto our children and grandchildren an increasing burden as the "greying" of America continues.

This bill is the product of a nonpartisan effort over the past several years by the Committee on Ways and Means. If we reject the bill, I am concerned that we will be sending a signal to the American people and the White House that the Congress is unwilling to make sure that the social security program remains equitable not only to the elderly and the disabled who receive benefits but also to the American workers who finance these benefits.

This bill should be supported. We have got to try to tie benefits to income better than we do. There is great concern in the land, when you go home and talk to people about the social security system, particularly the younger working people.

I have had any number of them say to me, "There won't be any social security system for me 20 or 30 years from when I retire," and there is great concern over this. We have got to remove this concern, and the way to do it is to tighten up via the reform route and not to hurt people in any way. This bill does not hurt anyone. It brings this disability insurance program into a better sense of reality and equity for all of the working men and women of America.

The letter referred to follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., July 31, 1979.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR BOB: As part of its updated budget projections prepared for the House Budget Committee, CBO has reestimated the revenues and outlays of the Social Security Trust Funds for fiscal years 1979 to 1984. These reestimates indicate that there could be a significant deterioration in the financial soundness of the Social Security System during the next five years. While the wage base and tax rate increases called for in the 1977 amendments to the Social Security Act were expected to be sufficient to fund the Old Age and Survivors Insurance (OASI) and Disability Insurance (DI) programs over the next 40 years, the recent inflation and anticipated economic slowdown have brought the short run financial soundness of the Social Security System into question again.

The specific problem lies in the OASI program. Using the five year economic assumptions developed for the House Budget Committee markup of the Second Budget Resolution for fiscal year 1980, balances in the OASI fund are projected to fall from 34 percent of outlays in fiscal year 1979 to 8.0 percent of outlays in fiscal year 1983 and 5.4 percent in 1984 (see Table 1). These levels would be insufficient to maintain the cash flow of the program.

Balances in the DI fund are projected to grow from 31 percent of outlays in fiscal year 1979 to 56 percent in fiscal year 1984. Over the same period, balances in the Hospital Insurance (HI) fund are projected to rise from 57 percent to 92 percent of outlays (see Table 2). The strength of the DI fund is partially attributable to tightened administration over the past two years which has resulted in a sharp decline in the rate of increase of disabled beneficiaries. The strength of the HI fund is, in part, related to the moderation in the growth of real hospital expenditures over the past 12 months, some of which has been attributed to the voluntary effort of hospitals to control costs.

Because the OASI program is so much larger than the DI and HI programs, the combined balances of the social security funds also decline considerably. Between fiscal years 1979 and 1984, the combined OASI and DI trust fund balance falls from 34 percent of combined outlays to 12 percent; and the combined balance of all three programs—OASI, DI and HI—falls from 38 percent of combined outlays to 27 percent.

These estimates, of course, depend critically on future economic conditions. Under the more optimistic economic assumptions used by CBO last January, the OASDI funds combined did not deteriorate significantly by 1984 (see Tables 3 and 4). However, the current outlook for high inflation and rising unemployment will have adverse effects on the financial status of social security. Outlays will rise rapidly because benefits will rise automatically with inflation, and the rising benefits and weak labor market conditions will induce more people to retire. At the same time, revenues will lag as employment and wage rates fall or grow less rapidly.

The economic assumptions prepared for the Senate Budget Committee's markup of the Second Budget Resolution do not show a markedly different outlook for the social security system from those outlined here (see Tables 3 and 4). The projections recently made by the Administration also indicate a decline in OASDI balances as a percent of outlays, but the decline is not as great as estimated by CBO (see Tables 3 and 4). The Administration's projections differ from CBO's because of differences in methodology as well as in economic assumptions.

If the situation develops as the CBO reestimates suggest, steps may have to be taken to ensure the solvency of the OASI trust fund. Among the available options are:

1. Funds could be borrowed or transferred from the HI and/or DI programs to the OASI program. This could still leave the system vulnerable should the economy go into a deeper recession than is now expected.

2. The OASI tax could be raised. This would, however, have the effect of increasing unemployment and adding inflationary pressure during a period when we will be trying to reduce both.

3. The OASI Trust Fund could be permitted to borrow from general revenues. This would be feasible if changes were simultaneously made that would lower future benefits (or raise future taxes) enough to allow a repayment.

4. The rate of benefit increase for OASDI could be cut in a way that could be quickly implemented. For example, the June benefit increase could be limited to the rate of increase allowed for wages under the President's wage guidelines if the cost of living increase exceeds the wage rise. (The June, 1979 increase was 9.9 percent while the wage guidelines called for 7 percent and actual money wages increased by 8.2 percent. CBO is projecting a 10.3 percent benefit increase for June, 1980 under the automatic indexing system.) This would share the difficulties caused by the recession more evenly between workers and retirees although it could cause hardship for some OASDI beneficiaries.

5. General revenues could be used to finance part of the OASI system. It has been suggested that generael revenue finance the so called "welfare" portion of OASI and DI benefits, although such a change may involve too many issues to be implemented in the short run. Another suggestion is to finance the revenue shortfall and outlay over-run attributable to economic downturns by a general fund transfer.

6. The HI program could be financed from general revenues and the HI trust fund balances and tax receipts transferred to the OASI program. Although HI is generally received only by families with social security contributions, the amount of HI benefits received by an individual is not related to the amount of past payroll tax contributions. Thus, the case for using general revenues to finance the HI program may be stronger than that for the OASI or DI programs. Because the HI receipts would be more than sufficient to maintain a reasonable OASI fund balance relative to outlays, the total payroll tax rate could be cut if it was determined that a non-inflationary form of fiscal stimulus was called for.

I will be happy to provide your Committee with any additional detail on the reestimates or options if it is of interest.

Sincerely,

ALICE M. RIVLIN,
Director.

TABLE 1.—OLD AGE AND SURVIVORS INSURANCE, DISABILITY INSURANCE, AND COMBINED OASDI OUTLAYS, BUDGET AUTHORITY, TRUST FUND REVENUES, AND TRUST FUND BALANCES[1]

[By fiscal year, in billions of dollars]

	1979	1980	1981	1982	1983	1984
Old age and survivors insurance (OASI):						
Outlays	90.5	104.0	119.8	135.7	150.4	165.3
Budget authority	86.7	99.4	113.1	131.7	147.3	163.8
Trust fund balance at end of year	27.2	22.7	16.0	12.0	8.9	7.4
Trust fund balance at beginning of year as a percent of outlays	34.3	26.2	18.9	11.8	8.0	5.4
Disability insurance (DI):						
Outlays	14.0	16.1	18.5	21.9	24.0	26.7
Budget authority	15.3	17.4	20.7	24.3	27.4	30.7
Trust fund balance at end of year	5.7	7.0	9.1	11.5	14.9	18.8
Trust fund balance at beginning of year as a percent of outlays	31.4	35.4	37.8	41.6	47.9	55.8
Combined OASDI:						
Outlays	104.5	120.1	138.3	157.6	174.4	192.0
Budget authority	102.0	116.8	133.8	156.0	174.7	194.5
Trust fund balance at end of year	32.9	29.7	25.1	23.5	23.8	26.2
Trust fund balance at beginning of outlays	33.9	27.4	21.5	15.9	13.5	12.4

[1] Based on the House Budget Committee, July 1979 economic assumptions.

TABLE 2.—COMBINED OLD AGE AND SURVIVORS INSURANCE AND DISABILITY INSURANCE HOSPITAL INSURANCE AND COMBINED OASDHI OUTLAYS, BUDGET AUTHORITY, AND TRUST FUND BALANCES[1]

[By fiscal year, in billions of dollars]

	1979	1980	1981	1982	1983	1984
Combined OASDI:						
Outlays	104.5	120.1	138.3	157.6	174.4	192.0
Budget authority	102.0	116.8	133.8	156.0	174.7	194.5
Trust fund balance at end of year	32.9	29.7	25.1	23.5	23.8	26.2
Trust fund balance at beginning of year as a percent of outlays	33.9	27.4	21.5	15.9	13.5	12.4
Hospital insurance (HI):						
Outlays	20.6	23.6	27.1	31.3	36.0	41.2
Budget authority	22.0	25.4	32.8	39.6	44.7	50.0
Trust fund balance at end of year	13.2	15.0	20.7	28.9	37.7	46.5
Trust fund balance beginning of year as a percent of outlyas	57.3	55.9	55.4	66.1	80.3	91.5
Combined OASDHI:						
Outlays	125.1	143.7	165.4	188.9	210.4	233.2
Budget authority	124.0	142.2	166.6	195.6	219.4	244.5
Trust fund balance at end of year	46.1	44.7	45.8	52.4	61.5	72.7
Trust fund balance at beginning of year as a percent of outlays	37.7	31.1	27.0	24.2	24.9	26.8

[1] Based on the House Budget Committee, July 1979 economic assumptions.

□ 1610

Mr. GIAIMO. This is a very worthwhile reform which this committee, this great Committee on Ways and Means is reporting out and reported out unanimously. It deserves to be supported.

I know there has been a lot of propagandizing and a lot of lobbying against this bill. Do not listen to it. It is that kind of attitude that says we will not reform anything, we will not cut back in any way, we will not reevaluate any existing program of the Government.

If we go down that road, if we go down that road we are going to destroy the whole program because we will quickly get to the point where we will not have the money to pay the benefits which we so easily and so frequently vote in this Congress. I urge support of this legislation.

Mr. BOLLING. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Texas, the chairman of the subcommittee (Mr. PICKLE).

(Mr. PICKLE asked and was given permission to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, first I want to express my appreciation to the Chairman of my committee, Mr. ULLMAN, and to Mr. CONABLE, the ranking minority member, for their endorsement and assistance on this measure. I particularly want to thank Mr. GIAIMO for his endorsement and for his very strong enunciation of what we are trying to accomplish in this bill.

I rise in support of the rule. Let me take just a brief moment to tell my colleagues first that there are two controversial sections: one with respect to the cap, and one with respect to the dropout year.

I would ask my colleagues to keep in mind that those amendments, that cap, does not affect the aged, will not affect veterans' benefits, and not affect anybody on the rolls today because those now on the rolls are grandfathered in under this bill. It will not even affect the great majority of the future disability beneficiaries. The corrections that we make will affect less than 2 percent of the outlays under this program.

But they are important, because I will tell my colleagues that either now or later these recommendations, or something more severe, are going to be passed because the American people are going to demand we not give benefits larger than they were receiving predisability.

The second part of the bill contains many liberal benefits. This is what I hope the Members will listen to. We considered this for 5 years. Last year the subcommittee, under the then-Chairman James Burke of Massachusetts, passed an almost identical bill to this. We did it for the purpose of giving to those disabled people liberal benefits so that there would be work incentives to get off the disability rolls and go back to work. Now that is the purpose of the bill.

It has been embroiled now in a propaganda proposition that we want to "cut benefits." That is not the objective. It is primarily to give work incentives, and we do it in this way: We say to a person you do not just have 1 year work trial period in which you can work and retain eligibility for benefits, we give you 1 extra year.

We will say to you, you do not have just 1 year of medicare coverage, we will give you 3 additional years, 36 extra months. And we will say to you that if you did get a job and you went just beyond the SGA, the substantial gainful activity level, and you then got off the disability roll, you would not be drawing benefits, but you would not lose your eligibility.

As it is now, a person only gets, really 9 months, a 1-year work trial period, and he only gets 12 months medicare, and after that he has to reestablish medicare eligibility and endure a 2-year waiting period.

What happens is that the great majority of the people on disability will say I would rather keep my medicare than go back to work. As a consequence, they do not make the effort to go out and get a job. I rather imagine if my colleagues were in their position they would do the same thing.

What this bill attempts to do is to give these liberalizations and say to the worker, go back to work, and you will not lose your eligibilities, and that heavy hammer will not hang over your head. That is really what this bill is trying to do, and that is what it can accomplish, but the debate gets hung up on the caps, and it is unfortunate.

One other thing, it gives a lot of benefits in speeding up procedures. We used to have 60 percent or 70 percent of preadjudicative reviews. Now it has dropped down to about 5 percent sample, postadjudicative. We do not have any review of the individual, and an individual can get on disability now, and he can ride it through, 5, 10, 15 years, and he stays on the rolls and he does not have to say he is either able or not able to go to work. We are trying to say to the recipient that we believe the average person wants to go to work, and we are giving him the incentive to do it, and that is really what the bill does.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the chairman.

Mr. ULLMAN. I want to commend the distinguished chairman of the Social Security Subcommittee, who has done a most responsible job with his subcommittee in looking at this whole problem, has held extensive hearings going back over what we have done the last 5 years, and come up with a bill that is eminently fair and eminently responsible.

Is it not true, I would say to the gentleman, is it not true that the vast majority of people who are under this program have been in the work force many years and do not have dependents? Is it not also true they would not be affected in any way adversely by this bill?

Mr. PICKLE. That is correct, 70 to 80 percent of the people would not be affected because the cap applies only to family benefits.

We have come to the Members with a modified rule. Originally the committee passed this unanimously, both the subcommittee and the full committee. In the full committee two amendments were offered, one by Mr. GEPHARDT of Missouri and the other by Mr. HEFTEL of Hawaii. Mr. GEPHARDT's amendment would have made a much more severe cap under the family benefits. The other amendment would have said we had to rely solely on medical factors rather than medical and vocational factors. Those amendments were defeated by only one or two votes, by very narrow votes.

We then went to the Rules Committee and said this bill passed unanimously, but we would like to have the right to have a vote on these two amendments. Some members of the Rules Committee felt that it would not be fair because the amendments were just going to make the bill tougher instead of more liberal, and they did not think that it was a fair choice. So we got the two Members to withdraw their request to offer amendments, and that is why we have come to you with this rule.

The only amendment is the one affecting vocational rehabilitation.

I will conclude by saying that we are trying to reach a balance between what is proper benefits and what is proper incentive. That is the key to this whole problem, and we think we have it.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, I believe among his other eloquent utterances, Hubert Humphrey once said he deemed it his duty to see to it that the Government did something to comfort the afflicted, and in some cases to afflict the comfortable. I do not claim that the bill we reported from the Ways and Means Committee is precisely in line with that philosophy, but it is not far off.

Most of the propaganda, including full-page advertisements that I have seen in opposition to this legislation, speak in terms of the severely disabled workers. The severely disabled workers are helped by this bill. This bill addresses itself to a problem which is understandable, it seems to me, by any citizen in this country.

The proposition is very simple: Should a person on disability payments from the social security system get more than they got when they were working, particularly in view of the fact that the people who are paying them that income are their fellow workers, not on a progressive income tax, but on the regressive social security tax, who still runs the lathes and are working in the offices? That is the fundamental issue, not the severely disabled, but those who are going to receive more than they got when they were working.

I hear it said that the way to reduce social security taxes is not to cut the benefits.

□ 1620

What kind of crazy, upside-down, sideways logic is that? How else in the world can you cut the cost of anything except to cut the thing itself? The disability program began in in the mid-1950's as nothing more than insurance that when you reached old age you would receive social security benefits, and it has grown humongous since then. And I applaud much of the growth. It has done a good thing for our country and the people in our country. But, for heaven's sake, we ought to know by now that one of the reasons we are in such dire trouble with the social-security system generally, and the tax on those working people in this country who must continue to work to pay these benefits, is that the benefits in some cases have allowed those who are not severely disabled to hit the jackpot on the nickel of those who are.

This bill seeks to do more than ever for those who are severely disabled, those who have lost the use of their legs and their arms, and that kind of seriousness, but at the same time it seeks commonsense. I appeal to the House to respond to that and then we will be doing equity both to the severely disabled and to the mildly disabled, as well as doing equity to the people who pay the bills.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the dstinguished gentleman from Illinois (Mr. MIKVA).

(Mr. MIKVA asked and was given permission to revise and extend his remarks.)

Mr. MIKVA. Mr. Speaker, the difficulty with this bill is not what is in it, but what is perceived to be in it by people who are opposed to any change, and that is a problem that comes up not only on the bill, but comes up on the rule. There is no way that the bill could have achieved the kind of unanimous support that it did in the subcommittee and the full committee if it did not take into account the needs, the concerns, and the responsibilities of all the citizenry who are going to be affected by it. Most of what has been written about this bill just is not there, most of the problems that have been claimed from this bill just are not to be heard, and the rule reflects that in that it tells the Members of the House that we have a chance to either make the changes that have been agreed upon or there is nothing that can be done at this point except wait for a worse situation to develop later on down the pike. I doubt that there is a single issue that comes before the Congress on which we get more mail and less understanding than social security. That is true whether we are talking about disability or whether we are talking about the tax rate, or whether we are talking about administrative procedures. All of it comes up in a context of much heat and very little light. I can only say that this bill was given, as our distinguished chairman, the gentleman from Texas (Mr. PICKLE) has said, 5 years of conscientious attention. We reviewed everything that could be done. What is in this bill are the only changes that are consensual. Anything other than that that is in this bill at this point is something that cannot be achieved. It would be great if we could take the cap off and give everybody everything that conceivably they would be entitled to or that they might think they were entitled to. There is not that kind of money in the fund; there never will be. It would be great if we could find a painless way of financing social security. This bill is all there is.

Mr. BOLLING. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FISHER).

(Mr. FISHER asked and was given permission to revise and extend his remarks.)

Mr. FISHER. Mr. Speaker, I also rise to support this rule and, of course, the bill itself. As somebody has already said, this is a testing moment, whether this House, this Congress, can make some changes, some reforms, some improvements, some tightening, some savings in a social security program and retain the essential purpose and benefits of the program. This is a test. It is not the biggest test on this subject in this Congress, but it is the first one, and I hope we can pass this test and put ourselves in a position later on to consider improvements in larger reaches of social security that will at the same time preserve essential benefits that people deserve and have been promised, and at the same time tighten the administration and save a little money that need not be spent.

The critical point here is the cap. The savings come, because the cap will be lowered. Expenses under this program have grown very rapidly in the 1970's. It is well known that there are problems with the administration of the program. There are equity problems. It is not reaching fully some of the people it should reach, and it is providing funds to some people who really with incentive would get back to work, and at the same time those who do take the incentive and get a job are protected. They can get back under the coverage of disability insurance more readily under this bill than they can at the present time. This is a testing moment in a small way, and I hope very much my colleagues would approve this rule, go on to debate the bill and approve the bill.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Speaker, as one who urged an amendment in the subcommittee and in the committee to in some people's view make this bill tougher, and as someone who almost carried that amendment, short by two votes I think in the subcommittee and I think two

votes in the committee, I rise in favor of this rule which does not make in order my amendment which I said was offered in the subcommittee, in the committee.

As has been eloquently stated, this is the work product of over 3 years in the subcommittee of the Committee on Ways and Means. The last time that many of us talked about social security was in 1977 when we passed the historic new taxes that people are now paying across America, and today we are going back on the part of social security that really caused those tax increases, the disability portion. There has been a lot of talk about the cap and, indeed, there should be. In 1967 the disability program cost in benefits in outgo from social security $1.9 billion. This year the outgo for disability for social security will be $15 billion, to give the Members some idea of what has happened with this program.

We are asking for a modest cap, in my view a very modest cap, but remember one other thing, this bill is much more than a cap on benefits. That is probably the least thing the bill does. Much more importantly, it greatly improved the administration of the social security program, the disability program. More than that, it protects the rights in many important ways of people who receive benefits under the disability program, and it gives positive incentives to people who decide they want to try to work when they are not sure whether they can work, who are disabled, to go into the marketplace to try to work and yet not lose their disability benefits while they are finding out whether they can work or not.

I urge the Members to support the rule.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for yielding.

Does this bill alter in any manner substantially those who are 47 years of age or younger who receive disability payments?

Mr. GEPHARDT. I do not know at what age one could say there is a difference made with regard to this bill.

Mr. SKELTON. What concerns me is what I have been told as to someone who is a younger disabled person who comes out on the short end of the stick as opposed to someone who is older and is disabled. Would the gentleman explain that as to whether that is true?

Mr. GEPHARDT. I do not believe that is true in the way we look at what one made in the past in determining his disability benefit. We change the way one views past earnings. It is my understanding that that change will probably help the younger worker as opposed to the older worker.

Perhaps the chairman of the subcommittee could be more specific.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

[] 1630

Mr. PICKLE. The bill would have an effect on those between the ages of 47 and 27. Under the present law everyone gets 5 years dropout. We have found those who are younger get the 5 years, because they have been at work for a shorter period, can get a much higher benefit compared to the person who has been in the work force for 20, 30, or 40 years.

Mr. Speaker, the committee attempted to close the disparity between the younger and the older period. We hoped we had done it. There is now some controversy that we could have just added more years. One could go at it in any way, but it is a minor part of the measure. Everybody gets the 5 years of the dropout under the present law.

Mr. CONABLE. Mr. Speaker, will the gentleman yield to me?

Mr. GEPHARDT. I do yield to the gentleman from New York.

Mr. CONABLE. This has no effect on those drawing disability benefits now. What happens will have some impact on the formula for people drawing disability benefits in the future, who become eligible at some time in the future.

Mr. Speaker, one of the problems has been that young people, frequently, because of the manner in which the formula is set up, are drawing very substantially more disability pay than older disabled people.

Mr. GEPHARDT. Mr. Speaker, I would just respond to the gentleman from Missouri (Mr. VENTO). The attempt was made in the subcommittee to make better parity between the older worker and the younger worker, because of the affect of inflation upon younger workers' wages when you look at a composite of year's wages in determining the disability benefits. That is the reason we changed the dropout-year formula between the two. I do not think it is a major matter and I do not think it is a great disincentive for the younger worker.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I will yield.

Mr. VENTO. The gentleman points out the cap does not change for existing workers. That is to say there is no new cap for existing workers who are receiving benefits. You do not eliminate any cost-of-living increases to them?

Mr. GEPHARDT. That is correct.

Mr. VENTO. Are there cost-of-living increases included or anticipated in the cap that will be in effect for workers that will fall under this new law?

Mr. GEPHARDT. Yes, the same law applies.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3236, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from Texas (Mr. ARCHER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. ULLMAN asked and was given permission to revise and extend his remarks.)

Mr. ULLMAN. Mr. Chairman, it will be the intention of the chairman of the Committee on Ways and Means to turn over the debate to the chairman of the subcommittee, the distinguished gentleman from Texas (Mr. PICKLE).

Mr. Chairman, I would like to open the debate by reasserting some of the arguments and some of the information presented in the debate on the rule.

Mr. Chairman, this bill culminates 5 years of intensive review of the disability program by the committee. It was unanimously passed by the committee and has the active support of liberals and conservatives, Democrats and Republicans. It is a modest bill that reduces benefits slightly for future beneficiaries and dramatically improves administration and assistance to people attempting to return to the work force.

These provisions include allowing deductions of work-related expenses before computing eligibility for benefits, extending medicare coverage for 3 years beyond current law and eliminating the second waiting period for medicare coverage if a person returns to work but is unable to hold a job because of his disability. This bill eliminates the risk, especially the loss of medical benefits, to a disabled person returning to work. Under current law, the decision to return to work is not easy. If an individual works for 1 year and then the impairment worsens or he is laid off because his boss claims he cannot handle the job, the disabled person must go through the whole application process again. He must wait another 24 months for medicare benefits and several months for cash benefits. This bill would eliminate these barriers to returning to work.

This bill improves the equity between younger and older workers by reducing the number of dropout years and by slightly reducing dependent benefits. These provisions have been controversial but several facts should be made clear: First, it does not affect anyone now on the rolls; second, it does not affect any-

one in the social security retirement and survivors program; third, it does not affect the typical disabled worker who is 50 years or older and whose physical ability has been diminished by hard labor.

Under current law, workers of all ages are allowed to exclude 5 years of low earnings in determining average earnings which then determine the level of benefits. For a 29-year-old, who has worked 7 years, this represents a 71-percent exclusion, 5 years out of 7 are eliminated. For a person age 50, who has worked 28 years, this exclusion represents only 18 percent of his or her earnings' history. This bill relates the number of dropout years allowed to a worker's age. No dropout years would be allowed for workers under age 27, but the number of dropout years allowed would gradually rise to 5, like existing law, for workers aged 47 and over.

One provision that has proved particularly controversial is the cap placed on benefits. Benefits are limited to 80 percent of average indexed monthly earnings, or 150 percent of the worker's primary insurance amount. Some argue that this is unfair, that this will not increase a person's incentive to return to work and that this provision was enacted because the fund was in a crisis situation. We must keep a few facts firmly in mind. First, wages earned in 1965, for example, are today fully indexed to account not only for the growth in prices since 1965 but also for the growth in wages over that period. The cap in this bill is 80 percent of this average gross income which results in 100-percent replacement rates of net income for the typical case. After accounting for the fact that the disabled worker no longer has to pay the payroll tax, State, and Federal income taxes, or work expenses, 80 percent of gross income can easily exceed the amount of predisability take-home pay. Work expenses alone in our high price energy world can be from 6 to 15 percent of income. This is especially true for two-earner families. Data from the Congressional Budget Office indicates that over 60 percent of these families have more disposable income after the disability than before the disability.

Let me give you a specific example. Before his disability, a husband was earning $12,000 and his wife was earning $6,000 and they had two children. Their net income, after work expenses and taxes, would be $13,400. After the husband becomes disabled, and his wife continues to work, their income would increase to $14,200. The economic incentive for the husband to return to his former job is actually negative, —$800. Benefit limits in the committee bill would reduce net family income in that situation to $12,800. So returning to work would yield a small but positive rise in family income.

It does not make sense in our society when we place a great emphasis on work, that workers who become rehabilitated should experience a reduction in income as a result. This bill would eliminate that inequity.

I think the evidence is becoming increasingly clear that higher benefits do reduce the probability of becoming rehabilitated. A CBO analysis indicates that economic considerations do influence the DI caseload. When benefits rise relative to wages, so does the number of beneficiaries. A study by the Social Security Administration reveals similar results. Another study in the most recent issue by the Social Security Bulletin indicates that higher benefits produce lower recovery rates.

Finally, this bill improves the administration of the DI program. It insures that decisions are made more equally between the States. Current law studies have shown that there is wide disparity in how determinations are made from State to State. The bill contains a mechanism for reducing these differences. This bill also reinstitutes the comprehensive review of disability cases each 3 years.

I conclude by urging pasage of this bill. Jake Pickle and other members of the subcommittee have studied this program in great depth for more than a year. Opponents of this bill say that we should wait until independent commissions have studied this in more depth. I question the adjective "independent" when several of their members organize lobby groups to oppose this bill. Furthermore, there are always studies in progress. If we waited for the last study to come in, we could wait forever. These independent commissions cannot determine the relationship between taxes and benefits. Only elected officials can make this determination. Our staff has been studying this for some time; HEW has been studying this for some time. Nothing significant will be learned that we do not already know. This bill was not passed in haste or in a climate of crisis, but was approved after careful consideration. I urge your full support.

□ 1640

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. PICKLE), who will handle that time.

(Mr. PICKLE asked and was given permission to revise and extend his remarks.)

Mr. PICKLE. Mr. Chairman, I thank the gentleman.

Mr. Chairman, this bill was passed in essence last year by the Subcommittee on Social Security. Earlier we were concerned then that there was a "run" on the disability program. It looked like the disability program was going to go broke, so in 1977 we passed a social security bill, and we raised taxes so that we would be certain that the American people would have the guarantee that there would be money there for their monthly checks.

Now, that was what we should have done. It took a lot of courage. I think we corrected four-fifths of the problem on social security when we passed that bill.

Some people will say, "Well, you don't really need now to do anything about the disability program, because we have money in the disability program."

Yes, the disability fund is in much better shape today. We should all know that and be glad about it: but we should also remember that in the last 3 years we have transferred some $3 billion per year from the other trust funds over to the disability fund, so that the disability fund would not go broke; so when you look at the fund you say, "Well, we don't really need to do anything. We don't need to cut back." That is not true, because we have actually reallocated some $9 billion over the last 3 years.

Second, we know that if there is a recession or a depression and if unemployment goes up, and that is the omen we have facing us now, then we know what is going to happen under the disability program. Applications are going to go up as they have in the past; so we have to be careful in what we do and not just say, well, there is plenty of money.

May I repeat that the objective of this bill was to give work incentive to these people to go back to work; things I mentioned a while ago such as giving them an additional year in the work trial period where they would not lose eligibility; such as giving them at least 3 additional years under medicare, and that is a great protection. We need to give that to the disabled people.

One other matter that I did not mention that I should have is that before you count your SGA, the level of earnings that determines substantial gainful activity, you can deduct all extraordinary work expenses. If you had to pay out extra money for a wheelchair or for medicine or expenses of that sort, you deduct that before determining whether or not you go off the rolls. Now, those are real incentives.

In addition, we have tried to speed up the judicial process so that these cases would not just go on and on an on. The court could remand this back down to the ALJ without cause or other reason which was weakening the appeal process at that level. We found that they were not having reviews of State decisions. It had degenerated to less than 5 percent of the review by the Federal Government of these cases.

Now this bill says that there would be review; in 1980 there would be a 15-percent review; in 1981, 35 percent, and 1982, 65 percent.

We also closed the record at the administrative law judge level.

More importantly, we put a provision in there that says that every 3 years each person not determined permanently disabled will be reviewed again to see whether they are disabled and should they be continued.

Now, we are taking nobody off the disabled rolls now. Everybody has been grandfathered, so those people who say we are going to "cut benefits," they are not correct, because we are not actually taking away any funds. We are simply making basic corrections.

We did not set about in this bill to "save money."

Some seem to think, well, we were trying to balance the Federal Government by virtue of savings under the disability program. Well, this would actually affect less than 2 percent of the outlays in this whole program. We would make a savings, perhaps, by virtue of these corrections of, oh, upward of a billion dollars in the next 5 years; but the fifth year from now we will be paying out $175 billion; so obviously, we are not trying to correct the Federal budget by this bill.

This is a good solid bill and deserves

our support. If we do not pass the bill today, these thousands, some 2 million people who deserve protection under these work incentives will not get them this year or next year and we do not know when. That would be grossly unfair if we did not pass a bill which we think has good balance. I recognize there has been some opposition, some under the cap, some under the dropout.

The intent was good. We had no idea that we would run into this kind of opposition, because some groups say you simply cannot cut any kind of benefit. We think we can do it and show the public that they can have confidence in the social security program and that is the purpose of this bill.

Now let me go into a little more detail.

I have found time and time again that what has been heard about this bill and what is actually in this bill do not often bear much resemblance.

First, H.R. 3236 recognizes that the present system makes it very hard—sometimes makes it almost impossible—for a disabled person ever to go back to work. I find this particularly tragic in the case of younger disabled workers, who are thereby encouraged to remain on the disability rolls for a long time. It is no less tragic in the case of a middle-aged person who finds himself or herself rendered useless to society during the prime of the working years.

As one representative of the disabled aptly put it: "Disability may be permanent, but unemployability is not."

Unfortunately, the current system does not recognize this and insists on adding the tragedy of uselessness to the tragedy of ill health. These are people who have been in the work force and who have been leading useful lives, pursuing a career, trying to make ends meet. In about a third of the cases they have been raising a family. Suddenly before they are old, severe ill health strikes. Or, these are people who have struggled with handicaps for many years—sometimes for all of their lives. To take these people and offer them the choice of being a ward of society or else striking out entirely on their own is not a defensible policy for this Congress to assume. It is bad for these disabled people. It is bad for the taxpayers asked to support them. And, in the long run, it can only be bad for each of us in this room.

This small bill cannot do everything to correct the inhuman ways we shut off our disabled citizens and render them useless wards of public programs. But within the context of the social security disability program, it does a lot. It takes steps to allow them to have the health coverage disabled people continue to need and to allow them to earn more money while still maintaining the right to benefits when they need them. It makes more room for the person whose work performance may be erratic.

H.R. 3236 removes several barriers currently thrown up against a disabled person who would like to become a productive citizen. Again, it does not do everything, but it is a critical and humane first step.

1. DEDUCTION OF WORK EXPENSES

First it allows the deduction of all work expenses related to the disability before computing continued eligibility for benefits. This means that if a person needs a special wheelchair, other special equipment, or special medicines and care in order to work, that will all be subtracted from his or her earnings before deciding if this person has indeed moved successfully back into the workforce. This puts the disabled person's earnings on a par with a normal person's earnings because the government would only take into account wages clear and free of the disability.

2. MEDICARE IMPROVEMENTS

Second, it provides medicare coverage for 4 years after a disabled person returns to work. Currently, a disabled person trying to move back into the workforce has only 1 year of medicare coverage. Medicare is often the most important benefit for a disabled person, who is more likely to have high medical expenses. So, this change is vital and humane and something the disabled people have asked for time and time again.

Moreover, under the current law, a person must wait 24 months for medicare coverage. Then, if that person leaves the disability rolls and returns to them later, he or she is faced with a second 24-month waiting period for medicare coverage. H.R. 3236 would remove this onerous second waiting period. And it is very unlikely that this group of people would have acquired sufficient resources or sufficient private coverage to carry them through a second 2-year wait. This, again, is something which disabled persons have brought to our attention time and again.

3. DOUBLE TRIAL WORK PERIOD

The third major provision of this bill to remove barriers for disabled workers is to double the trial work period—the time in which a person can work without losing eligibility for benefits. Currently that period lasts 1 year. This bill would allow it to go for 2 full years. If at any time during this period the person's earnings dropped below the limits set by regulation then benefits would resume immediately.

4. TRIAL WORK FOR WIDOWS AND WIDOWERS

The bill also extends trial work period privileges to widows and widowers.

5. STUDY FOR "SGA"

And it authorizes experiments and studies to be made on the effect of raising the amounts disabled persons can earn before losing benefits, to see if that will also help.

Many disabled groups are quite excited about the prospects of this new study authority. There is still very much to be learned about how truly to help disabled persons, and they have many plans and ideas they are anxious to try out.

These benefit liberalizations may cost as much as half a billion dollars over the next 5 years. That is no small change, and it stands as testimony against those who would claim the purpose of this bill is nothing more than an attempt to cut back on the social security program.

Now, let me talk about the cap. The cap changes the current family maximum so that a worker will not receive benefits which can actually exceed his after-tax earnings. This is a problem which arose out of the old benefit formula and was not entirely corrected by the decoupling actions of the 1977 amendments.

There are still some areas where benefits can exceed prior earnings. By carefully studying a large sample of recent beneficiaries, HEW has determined that some 6 percent of newly disabled persons coming on the rolls actually receive more in disability benefits than they did in the highest 5 years of their earnings, and another large segment receive replacements of over 80 percent of their wages. In the disability program, which has a duty to balance benefit adequacy with work incentive, having a significant number of beneficiaries with extremely high replacements is a particular problem, especially when one remembers the benefits are tax free. Not only is it unfair to the taxpayers who must support the program, it is out of line with most benefits accorded in this program.

As recently as 1967, a worker with median earnings and a family could expect only 60 percent of his prior earnings to be replaced by his social security disability benefit. By 1976 that had climbed to 90 percent—and, meanwhile, recovery rates from disability dropped to one-half of what it had been earlier. Also, workers without dependents have always received much lower replacements—averaging only about 45 to 50 percent of prior earnings.

You have to keep in mind that social security disability benefits are tax free. So when you take someone who has been making about $11,000 and give him almost $9,000 in tax free benefits—which is sometimes the case when family benefits are awarded under current law—I think you can see we have a definite problem. That person likely will never return to the work force.

This holds, too, at the lowest income brackets, because there is rightfully some concern about the lower incomes. Someone with earnings of about $6,000 would receive under current law well over $5,000 in tax free family benefits.

I noted that the median replacement rate for family benefits in 1967 was some 60 percent. But this bill does not bring anyone down to a 60-percent level. It does not bring them anywhere near a 60-percent level. It sets an 80-percent level, which is a generous, replacement, especially in a program such as social security.

What the bill does is slightly modify the existing maximum on family benefits. Under existing law, a disabled worker does not receive unlimited amounts of dependents benefits. The worker's family is limited to 150 percent of the worker's benefit at the low income levels now—and to slightly higher levels at middle and upper incomes. H.R. 3236 simply extends the 150-percent limit across the board. It also limits the replacement of prior wages to an 80-percent level.

These overly high replacements do not occur in the case of workers without dependents—and these cases constitute over 70 percent of all disabled beneficiaries, and they are not affected by this provision. High replacements also do not occur in about an additional 10 percent of beneficiaries who do have dependents, but are already limited by the 150-percent level in the current family maximum. But in about 20 percent of the new awards being made, the benefits are exceeding—or nearly exceeding—the average of the highest 5 years of prior income, and this must be corrected.

This is not right in an insurance program. And it is not fair to ask the taxpayers to support these benefit levels. If we do not correct this situation now, while this is still a relatively new problem, then we will only sharpen the debate between the taxpayers and the beneficiaries down the road. The piper will be paid but his tune is likely to get more shrill as we go.

Let me review quickly what this means:

No current beneficiary would be affected;

About 75 percent of future beneficiaries would not be affected;

The worker's own benefit is totally guaranteed;

Only benefits out of line with the history and purposes of the program would be affected; and

This correction would affect only about $38 million out of some $2 billion new benefits that will be awarded in the last 9 months of fiscal 1980.

Now, let me turn to the second corrective measure. This, too, addresses a relatively new situation—a situation whereby a worker who has been supporting this system with his labor and his taxes for years and years can receive a much smaller disability benefit than his younger counterpart. This, too, is a fact which cannot be tolerated in an insurance program, and indeed is being challenged at this moment in a court in California under old age discrimination laws fathered here by the esteemed gentleman from Florida, Congressman PEPPER.

To explain the problem in the simplest terms: A young worker, age 27, who received maximum benefits under current law would get $568 a month. A 50-year-old worker with maximum benefits would get only $496. He has been supporting the system 23 years longer than the younger man and yet he receives a benefit 12 percent lower.

Some groups have charged this bill is cruel to young workers because the young worker is more likely to need the higher benefit. That point alone, is entirely debatable. However, the bill takes no drastic step. Even in the worst case, it only reduces a 12-percent discrimination against the elderly to a 9-percent discrimination.

Actually, the dropout years was not created to ease the situation whereby a person might have low earnings in a few years. The dropout years was placed in the law in 1954 and 1956 when several new groups were brought into the retirement program. Benefits are calculated based on earnings beginning in 1951; thus, the dropout provision in existing law allows 5 dropout years. It was noted in 1954 that dropout years would also help people who had a few years of sickness or unemployment, but this was not the primary purpose—and the disability program was not even in existence at that time.

The problem with this provision has come about only in recent years as the wage base has risen far more quickly and dramatically than anyone in 1956 imagined. Thus, the young worker can calculate benefits based on only a few years, possibly at very high earnings.

This, too, is a problem which we must correct now—or it will only become more difficult to correct in the future. But this, too, is not a drastic proposal at this time. It will affect only $14 million in benefits out of the some $2 billion new benefits expected to be awarded in the last 9 months of fiscal 1980. Once again, it does not affect anyone on the rolls today.

This bill also takes steps to increase accountability in the social security disability program. An accountable program is not just a smooth running program. The award and denial of benefits must be reasonably uniform throughout the United States. The program must also be responsive to the disabled. It must accord them the courtesy of a correct and early response. It must make that response understandable. And it must make the right decision the first time so that applicants and taxpayers alike will be freed from the costly and lengthy appeals processes.

These, too, are the objectives of H.R. 3236.

Accordingly, this bill would:

Require that applicants be given an individual statement of the reason for the decision in their case;

Increase payments for medical evidence;

Reinstitute a comprehensive review of cases;

Give the Secretary of HEW regulatory authority to establish and enforce standards of operation;

Transfer full authority for the rehabilitation program for social security beneficiaries to the regular VR program and institute instead a bonus system of awards from the trust fund based on successful returns to work;

Require an HEW study of how State employees would be protected if a State agency ever relinquished operation of the program; and

Institute a review of all disability cases at least once every 3 years so that a person would not be left on the rolls long after he or she may have recovered.

Let me make one final note. Some State agency employees had expressed concern about the bill as it emerged from subcommittee because there was no provision in it to protect their rights should the Federal Government ever have to assume the responsibility of running the program in any State.

This was corrected in the full committee by an amendment I offered to order the Secretary of HEW to report to us by January—and report in great detail—exactly how he would handle the assumption of the functions of a State disability agency. How would he process the State employees for Federal hire? How would he protect their pensions? How would he insure that service to disabled persons was not disrupted?

Because of this amendment, the national organization for these State employees—the National Association of Disability Examiners—has strongly endorsed this bill. This amendment affords these employees a protection they do not enjoy under present law.

This is a wide-ranging and balanced bill. It will help us to maintain public confidence in the social security program, and I strongly urge its passage.

Now, Mr. Chairman, I would yield 3 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I will not even take the 3 minutes. I do not think it is necessary. This legislation before the House now, as I said a few moments ago, is not really complicated at all. If you want to do commonsense, if you want to help the people who are severely disabled and you want to make sure that nobody is doing better on disability than he or she did on the job financially, then this is the right bill for you.

I might add that if you sat on that committee through the years and listened to the testimony and examined the data, you would conclude that on the reform side this is a very, very mild, very weak cup of tea. There are other reforms that can be argued logically in the social security disability system that were not brought to the floor because they were perceived by some in the Committee on Ways and Means to be too controversial. What was brought here, apart from the propaganda, and I must say knee-jerk propaganda against this bill, is a very weak reform. If the House of Representatives and this committee cannot even achieve that weak reform, then I think that we have no cause for pride in the work we have done this day.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

(Mr. ARCHER asked and was given permission to revise and extend his remarks.)

Mr. ARCHER. Mr. Chairman, I want at the outset to compliment the chairman of the subcommittee, the gentleman from Texas (Mr. PICKLE) for the outstanding work that the gentleman has done on this bill and all the members of the subcommittee, the chairman of the full committee and the ranking Republican on the full committee and all the members of the committee because as was mentioned earlier, this bill was unanimously approved by the subcommittee which represents, I believe, a cross-section of the philosophies in this entire House. It came out, as has been mentioned earlier, by a voice vote out of the full committee.

Mr. Chairman, H.R. 3236 is not a perfect bill. It does not solve all of the problems, as I see them, in the disability insurance program. If the legislation had been written to my own specifications, it would be different from the measure before us.

But if the bill had been tailored to my taste only—or to that of any other Member—it might not have progressed so far. H.R. 3236 has survived. It has passed all the tests: Unanimous approval by subcommittee, and voice vote endorsement by the parent committee.

The bill has succeeded, Mr. Chairman, because it represents a workable compromise, an appropriate blending of shared objectives. H.R. 3236 does not make as many changes as some of us would like; it makes more than others want. But, it is realistic, it is feasible, and it does include a number of significant and long-needed improvements in one of the two programs comprising our Nation's basic social insurance system.

First, the bill provides for disability benefit levels that are more reasonable and more equitable. Second, and equally as important, H.R. 3236 makes it easier and more attractive for a disabled beneficiary to return to work, if at all possible.

Actuaries have estimated that the bill would reduce outgo from the social security trust funds by $184 million in 1981. The "savings" would escalate annually, reaching a yearly level of more than $1 billion by 1984. The long-range deficit in the combined old age survivors and disability insurance trust funds would be cut 14 percent, from 1.4 to 1.2 of taxable payroll.

Although these "savings" are significant, I think they will be further enhanced if the added work incentives which the bill provides are fully taken into account. I believe that H.R. 3236 will help more people return to the labor force, thus producing more income for both the Treasury and the social security trust funds.

I also am convinced that these same provisions will bring about an even more important "savings" in human terms. Too many persons who are deemed to be disabled windup on the shelves of our society. Through its improved work incentives and related provisions, H.R. 3236 should help many of these people to get back into productive pursuits, to rejoin the mainstream, and to enhance their own personal self-respect, a major key to happiness.

One of these provisions stems from my own long-held concern that some severely disabled persons have been discouraged from returning to full-time jobs because of the high cost of special equipment they need just to get around. Although they may be able to earn good wages, when they subtract from their earnings the special expenditures which allow them to function at work, they find they would be better off financially if they stayed home and continued receiving maximum benefits.

Section 5 of this bill would eliminate that disincentive to work. It provides that extraordinary expenses incurred by the severely disabled to keep them functioning will not be counted as earnings that will cause them to lose benefit status.

Other work incentives provided by H.R. 3236 would: Expand the trial work period from 9 to 24 months; extend medicare coverage for 3 years to the disabled who return to work; and eliminate the second 2-year waiting period for those who try to work, but find they cannot continue and are forced to return to the benefit rolls.

The bill also toughens review procedures in the disability determination process. It requires Federal review of an increasing number of initial decisions by stage agencies (up to 65 percent by 1982), and demands that each disabled beneficiary be reviewed at least once every 3 years as long as there is a possibility of recovery and a return to work.

Perhaps the two most controversial provisions of H.R. 3236 have the net effect of lowering total benefits paid to, and on behalf of future disabled beneficiaries. One provision reduces the number of "dropout" years for benefit computation purposes. Under current law, all beneficiaries may exclude the 5 years of lowest earnings when their benefits are computed. For younger workers who become disabled, this can create disproportionately higher benefit payments. Because maximum covered earnings have risen dramatically in relatively recent years, younger workers who become disabled can have their benefits computed on a much higher average earnings base than older workers, who have to take into account more years of lower covered earnings. H.R. 3236 cuts this benefit disparity between older and younger workers by phasing out the so-called dropout years for workers aged 47 and younger. Those aged 42 through 46 would be given 4 such years; those 37 through 41 would have 3 years; those 32 through 36, 2 years; 27 years through 31, 1 year, and under 27, no dropout year.

Another controversial provision would place a new limit on the dollar benefits that could be paid to a disabled beneficiary and family. Studies by the administration, committee staff, and actuarial experts, have shown that many disabled beneficiaries and their dependents are receiving benefits which, when combined, make them better off financially than they were before the primary workers became disabled. This obviously has constituted a serious disincentive to return to work, and the Committee on Ways and Means' Subcommittee on Social Security has endeavored, on a bipartisan basis, to find an equitable way to alleviate this problem.

I think it is clear that a substantial majority of members, at both committee and subcommittee levels, have favored limiting benefits so that the disabled are not better off financially than they would be if they were working. There has been some disagreement, however, as to what the limit should be.

After months of deliberation, the Subcommittee on Social Security produced a formula which limits total disability "family" benefits to the lower of: either 80 percent of the worker's average indexed monthly earnings (career earnings, averaged-out) or 150 percent of the worker's primary insurance amount (basic benefit). Subcommittee members obviously thought this was reasonable and equitable, because they approved it unanimously.

Although the formula, like the bill itself, may not be perfect, it does represent a practical, nonpunitive compromise.

It is important to bear in mind that the primary benefit, paid to the disabled worker, would not be reduced by the new family maximum, and that no reduction would apply to beneficiaries now on the rolls.

It is also important to note that the limit on benefits is just one element among many in the bill before us. Taken as a whole, H.R. 3236 offers major improvements, without radical restructuring.

If we are to have any reform of the social security disability program. On balance, it is a good bill, Mr. Chairman, and I urge my colleagues to support it.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding. I want to join with the ranking member in complimenting the chairman for the outstanding job the gentleman has done in bringing us to this point.

Mr. Chairman, the principal opposition to this bill centers around the provision for removing certain family benefits by imposing a cap. In this connection, I would like to just indicate a few basic facts to put this in what I feel is proper perspective.

First of all, the cap on family benefits is only imposed on a prospective basis. No one currently disabled will have their benefits reduced. The cap applies only to those who become disabled after 1979.

Furthermore, the cap has no effect on disabled workers benefits. These payments will not be lowered.

Furthermore, the cap will not lower payments to disabled widows, widowers, or disabled children.

The cap on benefits, according to the estimates provided to the subcommittee, would affect only 30 percent of newly entitled disabled workers; in other words, 70 percent of people coming on the rolls in the future would not be affected by the new cap which this bill would impose.

Finally, the cap is hardly severe. Private disability insurance generally does not replace more than two-thirds of prior income.

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The cap provided under this legislation would be at a replacement rate of up to 80 percent, which is substantially above the level which prevails in the private sector today.

Mr. Chairman, what we face is the question of whether reform is a one-way street. I would hope that the reforms in this bill would be viewed in their total perspective, and that the pluses as well as the minuses from the point of view of the public reaction would be taken into account. In my judgment, this bill is not only important for what it includes, but is important as far as its implications for the future are concerned.

Let me point out that in the 1977 social security amendments this House

did adjust the basic social security benefits that would be received in the future, and it adjusted them downward in a substantial manner, taking into account the fact that the formula provided under our earlier legislation for indexing of benefits against inflation was a faulty formula. I think much the same principle is involved here, Mr. Chairman, and that is that with the changes proposed by the subcommittee and approved unanimously by the Committee on Ways and Means, in my judgment we are going to end up with a more realistic total pattern of benefits under disability insurance, just as with the 1977 amendments we ended up with a better overall package of benefits for the basic social security program.

Mr. Chairman, I join with those Members who have spoken so far in support of this legislation.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

[Mr. LAGOMARSINO addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the ranking minority member of the full committee, the gentleman from New York (Mr. CONABLE).

(Mr. CONABLE asked and was given permission to revise and extend his remarks.)

Mr. CONABLE. Mr. Chairman, I support H.R. 3236, because I believe it would make long-needed improvements in the social security system's disability insurance program.

It is a balanced bill, carefully developed over a long period of time. During its formative stages, including extensive public hearings, it received a great deal of praise and little adverse criticism. In recent months, however, it has been the target of vigorous—and in some cases, misleading—lobbying efforts, and I would like to address myself briefly to this 13th-hour assault.

Opponents of the measure seem to be concerned primarily with one provision, section 2 of the bill. Total social security benefits to any one family already are limited by law, and section 2 would lower this existing family maximum, prospectively only, with respect to benefits for the disabled and their dependents. Contrary to some of the criticism, the new ceiling would not be punitive, would not affect persons already drawing benefits, and would not reduce primary benefits in the future.

Studies by our committee staff and others have shown that, despite the present law ceiling on total family benefits, some disability insurance beneficiaries and their dependents are better off financially than they were before the onset of disability, when the insured breadwinner was a full-time worker. The program simply was not designed to achieve that result. From the outset, our social security system has offered insured workers and their dependents a "floor of protection" against a loss of earnings due to certain contingencies, one of which is disability. The idea has been to provide basic protection, not more spendable income.

Against that background, H.R. 3236 would limit total benefit payments to a disabled beneficiary, plus dependents, to the lower of: 80 percent of the beneficiary's average predisability earnings, or 150 percent of the primary insurance amount. Considering the tax-exempt status of social security benefits and based on a preponderance of evidence presented to the committee, this limitation appears reasonable and equitable.

Second, some adverse criticism has been directed at section 3 of the bill, which reduces so-called dropout years for younger workers. Under the present law, younger disabled workers receive benefits which are disproportionately higher than those paid to older disabled workers. This happens, because benefits are based on average covered earnings, which have risen dramatically in recent years. The younger the worker, the fewer years of lower earnings. The older the worker, the more years of lower earnings, which have to be taken into account. H.R. 3236 would cut this benefit disparity by phasing down the earnings years which younger workers may exclude for benefit computation purposes.

To those who feel that H.R. 3236 goes too far in modifying future benefit levels or in making program changes, I would say that it is really a rather modest effort. It certainly does not go as far in any direction as some observers would like. During the 4 years in which the measure was being developed, the Subcommittee on Social Security heard a wide variety of proposals, including these:

To lower family benefits to levels far below those now in the bill;

To completely federalize the program, taking away from the States the task of making initial disability determinations;

To all but eliminate judicial review of appealed cases; and

To shorten the hearings and appeals process by abolishing the jobs of more than 600 administrative law judges.

These were just a few of the suggestions which the subcommittee entertained, but did not pursue, on the main ground that they were too controversial. What emerged from the subcommittee's lengthy deliberations was a series of amendments which were considered reasonable and enactable.

In essentially the same form it is in today, this legislation sailed through the subcommittee unanimously. The full committee made some minor alterations, then reported the bill, by voice vote.

Only after the bill had cleared the committee did the lobbying against any of its provisions develop in earnest. During public hearings on the measure, few voices were raised in protest. Praise, however, was effusive—and it came from scores of groups with diverse interests.

No wonder. Even the most strident opponent of sections 2 and 3 will concede that most of the bill contains sorely needed program improvements.

It would provide greater incentives for those beneficiaries who potentially are able to return to employment by lengthening the trial work period, by extending medicare coverage to those who do get back into the labor force, by eliminating any waiting period for medicare coverage for those who become disabled a second time, and by substantially liberalizing the impairment-related work expense deductions.

H.R. 3236 also would require the Government: First, to give claimants better explanations of disability determinations; second, to pay for existing medical evidence to support disability claims; third, to pay for a claimant's travel costs to obtain medical examinations; and fourth, to review periodically every nonpermanent case on the disability rolls.

These are all good provisions. The changes they would make in the disability insurance program are long overdue.

I submit, Mr. Chairman, that the sum of this bill is greater than any of its parts. And I suggest that if we cannot accept a modest set of proposals such as these, it is doubtful we ever can come to grips with some of the tougher social security issues that lie ahead.

Mr. PICKLE. Mr. Chairman, I yield 4 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

(Mrs. CHISHOLM asked and was given permission to revise and extend her remarks.)

Mrs. CHISHOLM. Mr. Chairman, I rise in opposition to this legislation. Rather than being a "reform" of the social security system, as its proponents claim, H.R. 3236 will have a devastating effect on those Americans who find themselves disabled and unable to find employment in a labor market already contracting under the pressures of our economy. Some of the proponents of this legislation have gone so far as to term these proposed changes "rather mild" in their impact on the disability insurance program. The fact is that this bill, if not defeated by the House today, will have a devastating impact on the disabled and their families.

H.R. 3236 would limit total benefits for future disabled workers to 80 percent of their average monthly earnings or 150 percent of the primary social security benefit they would have received upon normal retirement, whichever is less. This provision could reduce current benefit levels by up to 20 percent. Given that the average monthly benefit is only $340, a 20-percent reduction would place many beneficiaries below subsistence levels. Disabled workers usually lose valuable benefits, such as health care provided by their previous employer and, in addition, they often need to pay others to provide services they can no longer perform for themselves, such as home maintenance, transportation, and additional medical expenses caused by the disability. These increased costs dictate that more income than disabled workers now receive would be far more appropriate than the reducton which would occur under this bill.

While the negative effects of this legislation would apply to all disabled persons, I would like to turn for a moment to the effects that the two most damaging provisions of this bill will have on particular segments of the disabled population. The "cap" on the family benefit level in section 2 of the bill and the reduction in the number of "dropout years" for disabled beneficiaries under the age of 47 in section 3 will work the greatest hardship on younger disabled persons and their families.

Earnings, for most people, tend to rise in the early years of employment and reach a peak in the middle years. Thus, young disabled workers and their families are denied higher real earnings in the future. The ability to exclude low-earning years in computing benefits compensates in part for this loss. Since workers aged 26 or less "would not be allowed to exclude any years," under this legislation, these workers would be particularly penalized, because of the irregular work pattern of many young people.

The American Council of the Blind has indicated to me that the impact of this bill on blind Americans will be particularly startling. According to Social Security Administration statistics, one-third of the total 2.8 million disabled beneficiaries are under the age of 50. However, within the total number of blind beneficiaries, some 116,000, fully 71 percent are under 50 years of age. Thus, the detrimental impact upon the blind would be more than twice as great as upon disabled persons generally.

Blacks and other minorities would also be disproportionately harmed by the provisions in H.R. 3236. A recent review by the study group on social security indicates that "more blacks than whites become disabled and are more apt to have dependents." The 150-percent limitation of earnings on family benefits would be particularly hard on black and other minority workers with greater numbers of young children in their families. The alternative benefit limitation of 80 percent of a worker's average indexed monthly earnings would bear heavily on blacks because of their relatively low earnings records, especially during their younger years. The likelihood of low earnings records in the early years of a minority person's employment makes the current dropout years allowance an important compensation measure for minorities as well as younger workers. Black and other minorities also tend to have greater representation amongst younger disabled workers. Coupled with the high unemployment rate in minority communities, these workers would not only suffer the greatest cuts in benefits, as proposed by H.R. 3236, but they would also have the least hope of finding employment to replace their loss in benefit support.

Another group hit especially hard by these amendments is the Vietnam era veterans who are also in this younger age bracket. We have yet to deal compassionately and effectively with the legacy of our involvement in Southeast Asia, the plight of the Vietnam veteran. Now we are asking that they share a disproportionate burden in the name of "reforming" the social security system.

Public concern for fiscal responsibility cannot be misinterpreted as a license to assault social security benefits. If your constituents were faced with a choice between the type of "reforms" contained in this legislation and continuing to protect those Americans who find themselves disabled and without employment, I cannot believe that they would prefer to strip disabled Americans of what little support they currently receive. I strongly urge you to defeat this legislation.

Mr. PICKLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I rise in support of H.R. 3236 and its goal of bringing much needed reform to the social security disability program. As you know, Mr. Chairman, during the 4½ years that I have served as a Member of this House, I have consistently advocated improvements in the operation of the disability program specifically, and the entire social security system in general. I believe that we must make changes if this system is to continue to receive public support. In 1977 and again this year, I introduced legislation aimed, generally, at reforming the disability insurance program, and particularly seeking to eliminate some of the work disincentives which exist in the present system. Portions of my bill, H.R. 536, have been incorporated into the legislation we have before us today.

The disability program as it operates today exemplifies many of the problems facing the entire social security system. It is a program which has a vital purpose: to provide for the needs of disabled workers and their families on a permanent basis or until the worker can resume gainful employment. No one should seriously question that this goal is proper as well as necessary.

Unfortunately, over the years the disability program has acquired features which serve to discourage beneficiaries from attempting vocational rehabilitation and then returning to the labor market. For example, Congress has frequently increased benefit levels in the interest of providing adequately for disabled persons and their dependents. However, testimony given to the Committee on Ways and Means indicated that the higher the level of income replacement ratio provided by a disability insurance program, the greater the deterrent to reemployment. Under our present program, income replacement ratios for the average disabled worker with dependents increased by about 50 percent between the years 1967 and 1976. Over the same period disability recovery rates decreased by about one-half. We now spend over $13 billion annually in benefit payments to disabled workers and their families. Judging from the level of our present replacement ratios, I must conclude that a significant portion of this money goes to create a major reemployment deterrent.

However, it is important to note that benefit levels alone are not the sole employment deterrent contained in the program. As it operates today, the disability program does not provide the type of positive support which I feel we need to encourage disabled people to return to work. For example, the present system allows only a 9-month trial work period during which time benefits can continue to be paid. If the individual works beyond this period and then finds that he cannot remain gainfully employed, he is required to initiate a complete new application in order to reestablish eligibility for benefits. He also loses his medicare coverage and must wait an additional 2 years to regain entitlement to the program.

As I mentioned a moment ago, I have introduced legislation aimed at reforming the disability program. My bill recognized that the disincentives in this program go beyond the level of benefit payments. I testified about this problem before the Committee on Ways and Means and pointed out that my legislation would establish a longer 24-month trial work period and eliminate the waiting period for renewing medicare benefits. I am pleased that the committee chose to incorporate these proposals in the bill which is now before us.

Another serious problem in the present disability program lies in the administration and review of the disability determination process. Under the present program, we have found that the Department of Health, Education, and Welfare has not developed a reasonable standard of performance to guide the State-operated disability determination agencies in their handling of disability claims. Worse still, we have found that the Department is reviewing only about 5 percent of all disability determinations. This lack of performance guidelines and low rate of decision review means that we cannot insure the level of accuracy and uniformity that we should have in a program of this size.

The legislation I originally proposed, H.R. 536, recognized the lack of adequate administrative review, and I stressed this problem in my testimony before the committee. I am pleased that H.R. 3236 mandates a phased increase in the review process to a point where 65 percent of all decisions will be reviewed each year starting in 1982. Furthermore, the bill addresses the problem of uniformity in the determination process by requiring the Secretary to develop a set of performance standards and guidelines to provide better direction for the State agencies in making disability determinations. This approach will allow us to implement criteria which should improve the accuracy and uniformity of disability determinations, while at the same time allowing us to maintain the present contractual arrangement with the State agencies.

Continuing this arrangement is fiscally sound as well as practical. The disability determination process does not have to be federalized to operate properly, and this bill does not seek that end. State employees will continue to make disability determinations. With this bill, we are merely seeking to obtain the highest level of uniformity possible in the determination process. We have a responsibility to do whatever we can to reasonably insure

that a person claiming a disability in Georgia will receive the same determination as someone filing with a similar disability in any other State.

I am convinced that we should make these fundamental improvements in the disability program. The reforms are humane and, at the same time, fiscally responsible. This is an obligation we have to the people who support the program with their tax dollars. In 1977 the Congress raised social security taxes to insure the financial integrity of the disability program and the other social security trust funds. Had we not taken this action, the disability trust fund would likely have gone bankrupt sometime this year. We had an obligation to the disabled people of this country. They had contributed to social security in good faith and with the promise that benefits would be paid if they became unable to work. The Congress had to act to insure that those benefits would continue to be paid when they are needed.

Now that we have assured the funding of the system, I believe we have an obligation to those taxpayers who continue to contribute to the program. We must objectively evaluate the performance of this and other social security programs and make the changes we find necessary.

The need for fundamental reform was the reason that Congress created the National Commission on Social Security at the same time that contribution levels were increased. As you know, Mr. Chairman, I originated the idea for this Commission, and it is now pursuing its mandate to make a thorough review of the system and make recommendations for possible changes no matter how radical. The existence of this Commission gives me reason to be optimistic about the chances for creating a system which will serve us well for the remainder of this century and on into the next.

However, because of my strong support for the activities of the National Commission, some people have asked why I support changes in this or any other social security program before the Commission has had the opportunity to complete its work? The committee acknowledged in its report that these changes may themselves be changed when Congress undertakes a comprehensive review of the system. It is important to understand, however, that Congress is not going to incorporate the findings of the National Commission on Social Security into legislation on the day the final report is issued. That final report is over 1 year away and we all know that Congress will have to give it thorough consideration before taking any action.

On the other hand, the problems of the disability program have been clearly documented. They are continuing even as the National Commission goes about its work, and we cannot ignore that fact. I believe that we would be irresponsible to use our long-range reform plans as an excuse for inaction on specific and documented problems of this or any other social security program when we are presented with constructive solutions.

H.R. 3236 is a reasonable first stage approach to the problems of the disability program. Frankly, there are some features which trouble me. Most notably, I am concerned that the benefit reductions included in the bill will fall with equal weight on those families whose disabled member is totally incapable of ever returning to work as on those with temporary disabilities. I would have hoped that this could have been handled differently, or that we might at least have been given the opportunity to correct the situation on the floor. Unfortunately, the rule prohibits any amendment to this portion of the bill.

On balance, however, I believe the bill addresses the problems of the disability program by offering positive and humane incentives to encourage disabled people to try to return to work. The bill also seeks to insure a better administered program, and one that will, over the long run, curb the program's continually escalating costs. For all of these reasons, I have chosen to support H.R. 3236. I encourage my colleagues to do likewise.

Mr. PICKLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. PANETTA).

(Mr. PANETTA asked and was given permission to revise and extend his remarks.)

Mr. PANETTA. Mr. Chairman, I rise to make some comments on the legislative savings which would be achieved through the Disability Insurance Amendments of 1979 (H.R. 3236).

Most of the time I stand before you as chairman of the Budget Committee's Task Force on Legislative Savings, I discuss legislative savings proposals which have been developed by the executive branch and proposed in the President's budget. This bill is different, however, in that most of the proposed reforms come from a comprehensive examination of the social security disability program which has been conducted over the past several years by the Social Security Subcommittee.

Primarily because the administrative costs of this bill are higher than the estimates available to the Budget Committee and the Committee on Ways and Means in March of this year, the legislative savings in fiscal year 1980 will be less than the target of $62 million recommended by the Committee on Ways and Means in its March 15 report to the Budget Committee and assumed in the first budget resolution. The savings in the disability trust fund will be $17 million and there will be a small net cost of $24 million in the overall budget for the first year of operation under this bill.

The significance of legislative savings in a benefit program such as this, however, is not in the first year of implementation but in succeeding years. This occurs because the basic entitlement of current beneficiaries is normally not affected so that savings occur when people first become eligible for benefits. Typically with entitlement legislation, as the proportion of the beneficiaries who enter the program after enactment of reforms increases over time, the savings from reforms also increases. The Disability Insurance Amendments of 1979 are not an exception to the pattern. By fiscal year 1984, the legislative savings from this bill will be $1.1 billion in outlays. Total savings over the next 5 years will be $2.7 billion.

I think that the Committee on Ways and Means should be complimented for their political courage in bringing this bill before us. The appearance of reducing benefits for the needy is always a proposal that is not likely to capture the public's enthusiasm. Therefore, it is vital for the debate to focus on whose benefits will be affected by these reforms. The report accompanying this bill cites testimony by former HEW Secretary Joseph Califano that benefits in about 6 percent of the cases are actually higher than the disabled person's previous net earnings, and in 16 percent of cases, the benefits are more than 80 percent of net earnings before disability. Because of the impact of taxes and work expenses, a replacement rate of 80 percent of net earnings before disability is generally considered adequate to replace predisability income.

The major benefit changes in the bill would be a limit on the total family benefit at 80 percent of average earnings adjusted for inflation or 150 percent of a worker's primary benefit, whichever is lower. The bill would also reduce the benefit advantage which younger disabled persons receive compared with older persons who become disabled.

While achieving outlay savings of $2.7 billion over the next 5 years, the benefit reforms included in this bill will not jeopardize the benefits available to the needy.

The Congressional Budget Office has estimated that disability benefits allow families with one wage earner who becomes disabled to have on the average 95 percent of disposable family income before disability. This bill would reduce this percentage to an average of 89 percent.

For families with two wage earners, the Congressional Budget Office estimates that if one of the wage earners becomes disabled, disability benefits and other family income enable these families on the average to have disposable family income which is 5 percent above the income before disability. This bill would reduce this percentage to an average of 95 percent.

I would further note that protection against an income loss is provided to the low-income disabled. To the extent that disability benefits decline, low-income individuals will automatically be eligible for higher benefits under food stamps, the supplemental security income program, and in some cases aid to families with dependent children. These benefits from other programs will, at a minimum, replace dollar for dollar any income loss from changes in the disability benefit.

Thus, under this bill, we are not relegating disabled Americans to poverty but are avoiding the payment of benefits which in some cases will make people better off financially than when they were working.

It is not desirable public policy to provide financial incentives for people not to work. The Social Security Administration has found that as the percentage

of previous income, which is replaced by disability benefits has increased over the past decade, the recovery rate has decreased dramatically. Between 1967 and 1976, the average replacement of previous wages increased by 50 percent. Over the same period. the recovery rate decreased by 50 percent.

In considering this bill. we should be aware that the most important budget problem which we will face over the next half century is the financing and benefit structure of programs which replace the earnings of retired and disabled Americans. The largest program in this category is social security with estimated outlays of $116.8 billion in fiscal year 1980. Other retirement and disability programs will have additional outlays of $49.7 billion in fiscal year 1980.

Ultimately, these programs will be financed through the taxes of workers. Whether the social security tax continues to be the primary way social security will be financed is an issue which involves the incidence of the tax, or in layman's terms from which pocket it will be paid and how the tax burden will be distributed among workers with different incomes. Thus, our major budgetary dilemma will be how to finance retirement and disability programs in a way which is fair to both recipients and to workers whose taxes finance the benefits.

The bill before us today is equitable for recipients and is fiscally responsible. I urge you to vote in favor of this bill.

☐ 1700

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, I would like to have a colloquy, if I may, with the chairman of the committee. I will just ask a couple of questions. I received a whole list of people who are now against the bill, and I think the gentleman answered partially why they are so up-tight about this; but I would like to ask a couple of questions, if I may, to get a few things clear.

Under the bill, if a person becomes disabled and then decides to go back to work and try it for a while and it does not work, and he then comes back under the disability benefits, does he come back in under less benefits than he had when he went off?

Mr. PICKLE. If the gentleman will yield, the answer is "no," he does not. He comes back at the same level.

Let me point this out to the gentleman: It is for that very purpose that we have made this change. We say to the man, "You may go back to work, and if you cannot make it, you come back on the rolls at the same level. You forego your benefits: you do not lose your eligibility. You just do not draw benefits during that time, but your eligibility is protected."

Mr. MARRIOTT. Now you have extended the trial work period from 9 months to 24 months; is that correct?

Mr. PICKLE. Yes; it was 1 year. We just extended it 1 additional year.

Mr. MARRIOTT. You are saying a person who is disabled and goes to work after 20 months, comes back under the program, he gets the same level of benefits he would have received under the old schedule?

Mr. PICKLE. That is correct. But with any increase that might have been added in the meantime. So that man is not adversely affected. As a matter of fact, it gives him a greater incentive to go out and make an attempt at a meaningful job.

Mr. MARRIOTT. There is one other thing that puzzles me, and that is that it is very difficult, first of all, to get on these benefits, to begin with. You have a 5-month waiting period. The definition of "disability" is about the worst definition you could ever find. It is any occupation disability definition. I do not understand, with that type of scenario, why we are cutting benefits at all.

Is it true that 84 percent of new people coming under the program will in fact come under with lower benefits? And we are not counting benefits, are we, which try to keep people from staying on the program? Let me just ask that question. Why are we cutting benefits here under this new program? We are not cutting taxes on our social security payers, are we?

Mr. PICKLE. No. The reason we are making this change is that statistics show us that over 6 percent of the people drawing maximum family disability benefits draw more benefits under disability than they were earning in predisability income. Up to 16 percent of them draw more than 80 percent of their average predisability earnings.

In that scenario, we say to you that it is difficult to explain to the American people why a person should receive more money tax-free on a disability than he earned before. That is why we put it in. We did not set out for the purpose of cutting taxes, cutting benefits, or trying to save money. We tried to correct a situation that was untenable and that must be corrected at some point.

Mr. MARRIOTT. The gentleman is not suggesting that the level of benefits has anything to do with how long people stay under a program. is he?

Mr. PICKLE. No. The secret, the key, to this whole program is that we are trying to get a proper balance of what is adequate benefits compared to work incentives—how much do you pay a man, how much does he have to earn—or not earn—before he gets off disability. It is a very difficult level to establish. We followed the leadership of HEW in that respect. Let me say to the gentleman in this connection, with respect to the cap and the drop-out rate and the bill as a whole, it was endorsed by former Secretary Joseph A. Califano, who strongly supported this bill, by Stanford Ross, Commissioner, Social Security Administration, and by the present HEW Secretary, Mrs. Harris. We know there are difficult decisions in these areas. but we think they are the right decisions.

Mr. MARRIOTT. I thank the gentleman.

Mr. PICKLE. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. BIAGGI).

(Mr. BIAGGI asked and was given permission to revise and extend his remarks.)

Mr. BIAGGI. Mr. Chairman, I rise in strong opposition to H.R. 3236 which some have referred to as the disability insurance reform amendments of 1979. To consider this bill as a "reform" measure is a hoax when in fact its real impact would be to drive millions of disabled Americans deeper into the perils of poverty.

Let me say at the outset that I am joined in my opposition to this legislation by the distinguished chairman of the House Select Committee on Aging, Mr. CLAUDE PEPPER. I serve as chairman of the Aging Committee's Subcommittee on Human Services and CLAUDE PEPPER and I are especially concerned with the negative features of H.R. 3236 which impact on the sizable number of disability recipients over the age of 60. Older Americans and especially those on fixed incomes are already the most economically vulnerable segment of our population. Our legislative efforts should be directed at providing older Americans with greater—not less protection against inflation.

The bill's faults are many and can be traced in large measure to two false premises which proponents base this legislation on. The first is that the disability insurance program trust fund is in serious trouble and therefore benefits must be reduced. The 1979 report by the trustees of the social security trust fund predict a surplus in the disability program for the next 75 years. The second premise is that by reducing benefits you will be somehow providing a work incentive for those on disability. The facts are that many of those on disability are not capable of rehabilitation and in fact more than 70 percent of disability recipients are over age 50 and have chronic disabilities which make rehabilitation impossible. Work incentives are important but to apply them to this program in this broad a fashion is at best misguided intent.

Much of my objection to this bill stems from section 2 of which imposes a ceiling on family benefits calculated at 80 percent of averaged indexed monthly earnings or 50 percent of the benefit amount whichever is lower the impact of this provision is best illustrated by the following chart prepared by the AFL–CIO, a strong opponent of this legislation.

TYPICAL EXAMPLE

In order to demonstrate the actual effect of benefit reductions under H.R. 3236 for a typical family, a comparison is made below between current benefit levels with those provided by the bill for workers at different ages earning $15,000 at the time of disability. The example is for a worker with a wife and two children.

Workers age	Current family benefit (monthly)	Proposed benefit (monthly)	Percent reduction in benefits
30	$858	$730	15
40	843	714	15
50	819	702	14

The percentage reduction will vary according to age and income. For example, for incomes of $10,000 and $11,500

at the above ages, the cuts will be approximately 20 and 18 percent. On an average, the bill will result in a 15-percent benefit reduction for disabled workers with families.

Another especially punitive provision of the bill is contained in section 3. Presently all disability recepients are able to "drop off" 5 years where they received low or no earnings when calculating their disability benefit levels. Section 3 proposes to do away with this drop off provision for those under 27 and not apply the 5-year drop off until a person reaches age 47. This serves as an unnecessarily cruel penalty on younger workers who under the rules of the program have to prove higher degrees of disability simply to become eligible. Further younger workers are frozen at average earnings levels at the time they became disabled. Finally, statistics have shown that over the past decade, the rate of unemployment among younger people, especially the minority young, has run far in excess of the national average meaning that by age 27 some disabled may have just begun to work.

Perhaps the most fundamental objection I have to this bill is that it is premature. Here we are expected to vote on legislation making major changes in the disability insurance fund before even evaluating major reports which we mandated in 1977 legislation. These include reports by the National Commission on Social Security and the Advisory Council on Social Security.

The list of those opposing this legislation is impressive and should be persuasive. As mentioned earlier, the AFL–CIO is strongly opposed. The leading senior citizen organizations—the American Association of Retired Persons, the National Council of Senior Citizens, the National Council on Aging are all opposed. The Disabled Veterans of America and the Multiple Sclerosis Society and the National Organization of Women are opposed. Perhaps the most germane of all opponents are those who make up the SOS Coalition to protect social security. This group is led by former HEW Secretary Wilbur Cohen who has spoken out repeatedly in opposition to this legislation. Also on the SOS Coalition is Robert Ball, former Social Security Administrator under President Kennedy, Johnson, and Nixon. His two predecessors in that job, Mr. Charles Schottland and William Mitchell, are also part of the SOS Coalition opposed to the bill. These are men who administered the programs who feel these so-called reforms are not good for the program and the disabled of this Nation.

One other note about a distinguished opponent of this legislation. Our revered colleague Wilbur Mills who as chairman of the House Ways and Means Committee had a truly outstanding knowledge of the workings of the social security system in a letter dated June 18 indicated his opposition to H.R. 3236 until Congress may have an opportunity to further examine the situation.

Let me close with one observation. The social security system since its inception more than 40 years ago has been a source of great confidence to the American people. They had the confidence which comes when one enters into a contract which has a performance guarantee. The social security system has honored its contractual arrangements throughout its history by never missing a pay day. Yet constant news of shortages in the social security trust fund coupled with attempts at legislative "reforms" such as H.R. 3236 begin to undermine the American people's confidence in the system. As the National Council on the Aging said:

> The social security system is an intergenerational compact which has served America well for three generations. Hastily construed adjustments to the system . . . constitute a precipitous and unnecessary challenge to the soundness of the system.

In conclusion I implore my colleagues to defeat this bill. It is premature—it is punitive and provides the most damage to those least able to afford it.

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Mr. PICKLE. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Chairman, I thank the able gentleman and my devoted friend for allowing me that much time.

Mr. Chairman, as chairman of the Committee on Aging, I join several million individuals in over 100 organizations across the Nation in expressing my strong opposition to H.R. 3236, the Disability Insurance Amendments of 1979.

Mr. Chairman, I have the figures here from HEW, that 30 percent of the people who are affected by this legislation are 60 years of age and over, and the average age of the people who are covered by this disability insurance, the amount of which is attempted to be reduced, is 55-6/10ths. So this affects elderly workers as well as the average workers.

Of particular concern to the tens of millions of elderly and disabled persons are the so-called benefits cap and dropout provisions. Under section 2 of the bill as reported, beneficiaries would be limited to a maximum amount of total benefits: 80 percent of the worker's average monthly earnings, prior to his disability or 150 percent of the worker's primary insurance amount, whichever is lower. Section 3 of the bill would eliminate or reduce the number of low earnings or no earnings years that a disabled worker could "drop out," or disregard for the purposes of computing benefits.

As a member of the Committee on Rules. I urged that closed rule be denied H.R. 3236 so that these odious provisions could receive the scrutiny of this entire body. To my profound disappointment, the Rules Committee did not provide for discussion of this bill with a rule that would make amendments to strike these provisions in order.

As it is presented on the floor today, H.R. 3236 represent an alarming lack of mature and intelligent deliberation. The intent of the bill appears to be quite clear. The committee report defends the benefits cap and dropout provisions in terms of "the need for work incentives." It would seem that the supporters of these two provisions do not believe that recipients are in fact disabled. Mr. Chairman, nothing could be further from the truth.

Congress wrote strict eligibility requirements in 1956 when the disability program was initially added to social security; and 11 years later Congress rewrote the eligibility criteria to tighten them further still. Currently, to qualify for disability benefits, individuals must be severely impaired. No consideration is given to social or vocational limitations. Moreover, an applicant must wait 5 months before becoming eligible for benefits. Because unemployment compensation is payable only to employees able to work, the waiting period usually means almost half a year without income. I would add that the Social Security Administration has historically pursued a notoriously rigorous policy of implementing regulations to the extent that large numbers of people who should qualify by any humane standard, do not.

The authors of the report language, with their continual references to work disincentives, would have us believe that beneficiaries are living off the fat of the land at the expense of the American taxpayer. H.R. 3236, they claim, will end this alleged extravagance by lowering benefit levels to the point where these "freeloaders" will have an incentive to return to work.

But disability benefits are not glamorous—the average monthly payment is only $327.66. It is to take leave of commonsense to suggest that a sum of $80 per week will discourage individuals from returning to work. The fact is, Mr. Chairman, that most disability beneficiaries cannot return to work. In almost all cases the disability is chronic and progressive in nature, and in many the ailment is expected to terminate in death.

We are told, nevertheless, that these cutbacks are necessary to keep the trust fund intact. Very few of us in this Congress have failed to affirm our sense of fiscal responsibility to the American taxpayer. All too often, however, the fiscal knife has been wielded most enthusiastically on those tied to the stake of poverty and misfortune. H.R. 3236 is a tragic example of moral irresponsibility in the name of fiscal austerity.

The bitter irony is that the trust fund is in no danger of bankruptcy at all. The growth rate of the number of beneficiaries on the rolls is the lowest since the beginning of the program. Furthermore, the Social Security Amendments of 1977 rectified the error in indexing benefits that initiated the trust fund crisis. Mr. Chairman, that crisis has passed. But today we are in danger of creating a much greater one among the disabled population in America.

Whatever the intent of the bill, its effects cannot be mistaken. I quote from the language of the committee report:

> The 80-percent limitation is designed to affect wage earners at lower earnings levels.

The bill in fact will slash the benefits of the very individuals that need them the most—the low-income disabled. This attempt to goad the disabled and elderly back into the work force by reducing their benefits would serve only to punish

those in desperate and legitimate need of Government support.

Mr. Chairman, to those of us who were around almost 45 years ago when the social security system was in its infancy and have seen it evolve into an ironclad intergenerational compact that has served America well for three generations, this bill is an abomination. This legislation would create a precedent which would fundamentally undermine that social compact. For the first time, concurrent beneficiaries in the same statutory categories would be treated differently depending upon when they first started receiving benefits. I cannot help but believe that the sharp reduction in the level of social security protection will make the over 110 million current contributors to the program and the 35 million current beneficiaries alarmed about the Government's intention to honor its commitments to them.

Finally, Mr. Chairman, I have the figures here from the report on page 34, showing the total amount proposed to be saved in the next 5 years from 1980 through 1984, which is $1,700 million.

Now, Mr. Chairman, from whom is that $1,700 million to be saved? From the crippled people of this country. A cap is to be put on the amount of income under the legislation that is now current that may be received by a family. That includes the children of disabled people who might be the head of a family.

Are we so destitute in America, are we so hard pressed that we have to turn to the cripple as the course of the purchase saving of revenue for the next 5 years?

Is this the leakage that is causing concern to our fiscal structure, the amount we are paying the handicapped of America?

I just hope that I will not be associated in an endeavor that has that purpose. It is regrettable, I think—I know it is commendable that my distinguished friend and those with him want to save money, but goodness knows, are there not other places where we could save a comparable amount without taking it from these people?

They say that they are getting too much money under the present law. How much are they getting? It is $320 a month on the average. That is about the poverty level.

They say, "Well, if we will cut the amount they are getting, we will push them back into regular employment." How do they know we can do that?

Most of them are seriously handicapped, seriously disabled. They are not able in many cases to go back. So if they are not able to go back, all your attempted coercion does is to reduce their standard of living, not only for the disabled person, but also for the children and the spouse of that disabled person, who may still have the honor and the responsibility of being the head of the family.

Mr. Chairman, with all my heart, I oppose this legislation and hope my colleagues will not adopt it.

Mr. PICKLE. I yield myself the remaining time. Mr. Chairman, I thank the gentleman.

I want to say to the gentleman from Florida that all of us on the committee, subcommittee, and the full committee have the highest respect for him as an individual, and we know that the points he has made are made in complete sincerity.

I hope he would give to us the same benefit of good intent when we bring to this floor a bill to give work incentives so people could come back to work.

I say to the gentleman that the amount of money that people get under the social security disability program is based on their earnings. They get so much based on what they have earned during their worktime. This is a social insurance program. It is not a welfare program. We cannot give everybody everything and all the amounts that they want. We must keep it somewhere on the insurance principle.

The replacement ratio has gone in 1967 from 60 percent up to over 90 percent in 1975. No private company would give anyone that kind of insurance.

Now, if there is extra money needed, then it ought to come from welfare, from AFDC, and I might say to my colleagues, SSI. Plenty of people are doing that. Those people who the gentleman says would be impoverished would be getting these moneys from other sources.

I say to the gentleman that we are trying to keep this program on an insurance basis, and we cannot defend the fact that we are going to give them more than they would have gotten before they became disabled.

May I make one other point to the gentleman? I love him as an individual, but if we keep on the same levels that we are, the individual then will not have any desire, or very little, to go back. A great many of them are handicapped, can never work, and they will never be affected.

In the first place, as the gentleman knows, we grandfather everybody in so that nobody is hurt, but if we do not give them the incentive, you know what we are doing, in my opinion? We are relegating those people to the closet. We are going to say to them, "You are going to become wards of the Government."

We ought to say to them instead, "Go out and work, and we will give you the protection of the work incentive so that you can find your rightful place in society, and if you can't make it, you have your benefits, and you come back." That is what we are saying.

We are not trying to cut them. We are trying to maintain the integrity of our program.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I am pleased to yield to my colleague from Florida.

Mr. PEPPER. My distinguished and beloved friend knows I have the most profound respect for him, and I am sure he is conscientious in his belief that maybe we should make some cuts in this program, but I have to resort to the logic of the situation and what I see is the fact.

Now, is what my honorable friend is saying that the crippled, the disabled people of the country are to be castigated as chiselers? They are not going back to work, because they are getting more under this law than they would get if they were working? That is a severe castigation of the disabled people of this country.

I believe that the incentive to better life for his family burns just as brightly in the heart of a disabled person as it does anybody else, including the Members of this House.

Mr. PICKLE. Does the gentleman from Florida realize that the amount of people who go off the disability rolls each year amounts to approximately 1.3 percent? That is an astounding figure, to me. At one time we did get 3 percent. At this point, the people who recover are so small that the program is not working.

This bill loses money the first year. That is why we are spending millions of dollars, though, in an effort to try to get people to go back to work.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I reluctantly yield to my distinguished colleague.

Mr. CORMAN. I thank the chairman, but I am fascinated by the gentleman's concern that only 1.3 percent of these people go back, because the law says that they have to be totally and permanently disabled before they go on.

Does it shock the gentleman that we administer this program so tightly that they really do have to be permanently and totally disabled before they go on, and of course they do not go back?

Mr. PICKLE. No; the gentleman knows better than that. There is a presumption that if a man is at a prescribed level of medical impairment he is disabled unless he is actually working and earning more than the substantial gainful activity level. That is the intent of the whole bill.

It is not that he is permanently disabled. If he is permanently disabled, he would not be subject to the rule.

Mr. CORMAN. My point is that the gentleman is concerned about the fact that those going back are such a small percentage, I say that that is proof that the program is being administered very tightly in the first place.

● Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 3236, the Disability Insurance Amendments of 1979.

Mr. Chairman, the guts of H.R. 3236 is an average 15 percent reduction in benefits for the families of workers who became disabled after 1978. The question before the House today is not whether social security benefits can ever be cut. It is whether or not the cuts in this bill are fair and necessary.

According to the committee report the cut in family benefits is designed "primarily to strengthen work incentives for disabled beneficiaries." Is cutting family benefits a fair and effective way to get individuals who would otherwise meet the eligibility requirements of the disability program to stay off the program?

Current law states that an applicant for disability insurance must be unable, because of his or her impairment, to do any work that exists in the national

economy, regardless of whether or not: First, such work exists in the immediate area in which he lives; second, a specific job vacancy exists; or third, the person would be hired if he applied for work.

Mr. Chairman, if the law is not being enforced—if there are people on the disability rolls who are able to "do any work that exists in the national economy" then does it not make more sense to improve on the eligibility determination process than to cut benefits across the board? The benefit cuts in this bill will hit 84 percent of newly disabled workers with dependents receiving benefits. That is reneging on promises we have made to U.S. workers over the years who have paid taxes year after year.

Mr. Chairman, in a letter to all Members dated July 17, 1979, the distinguished chairman and ranking minority member of the Ways and Means Committee observed that this bill is the result of 5 years of work. Yet in the committee report one justification advanced for an average 15 percent cut in benefits is the fact that it is "temporary and transition in the sense that when the social security benefit structure and formula are examined later in this Congress in a comprehensive way, other approaches might be found preferable for the long term."

With all due respects to my colleagues on the committee—would it not have made more sense to wait a few months until this comprehensive review is completed before we start placing a greater financial burden on the disabled? Frankly, I think disabled Americans have the right to have us get it straight the first time. If we have waited 5 years for a bill to make the disability program more "responsive to today's work force" then we can wait a little longer to see what a comprehensive look at the system teaches us.

Mr. Chairman, the disability insurance trust fund is in good shape financially. The committee report states that the 1977 amendments assured the solvency of the trust fund well into the 21st century.

It has been alleged that "special interest groups" have mounted an intensive campaign to defeat this bill. The allegation is correct. Organizations of the disabled, labor, women and church groups, civil rights groups, and senior citizens' organizations, and veterans organizations have banded together to protect the public—and I believe, to protect us, from a mistake—a grave mistake.

I would like to quote from just one of the dozens of letters that I have received asking me to vote against H.R. 3236. This one is on July 11 from Billy O. Hightower, national commander of the Disabled American Veterans. He wrote:

. . . in a message to Congress on welfare reform the President stated that "even in a period of austerity and fiscal stringency" the Nation "cannot afford to ignore its most needy citizens." This plan he stated is guided by two principles, "those who can work should, and there should be adequate support for those who cannot." We must ask: Is H.R. 3236 the "adequate support" for those who are physically unable to work? We think not.

I urge defeat of the bill.●

● Mr. WEISS. Mr. Chairman, I oppose H.R. 3236. I regret that I cannot support this bill, for it contains much-needed reforms in the areas of work disincentives and administration. However, it also contains a clause restricting disability benefits to 80 percent of the recipient's previous average indexed monthly earnings (AIME), and I believe that this provision is destructive enough to outweigh the bill's positive features.

The proponents of this provision claim that under present law disabled workers can receive more in disability benefits than they ever received in pay, and that the 80-percent AIME cap will remove a substantial work disincentive by insuring that this does not occur. However, the cap is far more restrictive than it appears. The AIME is calculated by averaging all of a worker's earnings, including extremely low, and even part-time, wages, from the very beginning of the recipient's earnings history. In effect, this condemns disabled workers to benefit levels that are usually far below their earnings at the time that they were injured.

The destructive impact of this provision can be fully grasped only in light of the fact that at no point during the existence of the disability program have more than 3 percent of its recipients returned to work. This figure includes periods in which average disability benefits replaced only 60 percent of the recipient's prior earnings, so that incentives to return to work were extremely strong. The fact is that most disability recipients are simply incapable of supporting themselves and their families. It seems grossly unfair to make the existence of the great majority of disabled workers more difficult in order to force the few recipients, who could potentially be reemployed, off the disability rolls.

Mr. Chairman, it is unfortunate that a bill that contains so many constructive work incentives also contains provisions penalizing those who cannot support themselves under any circumstances. However strongly I support the concept of work incentives within disability programs, I cannot, in good conscience, support legislation that reduces benefits for the families of the totally disabled. In a period of inflation such as this one, there is no excuse for cutting the few resources they have.●

● Mr. MAGUIRE. Mr. Chairman, I urge my colleagues to oppose H.R. 3236, the Disability Insurance Amendments of 1979. H.R. 3236 has been publicized as a bill to improve the social security disability insurance program, yet it has been opposed by virtually every disability organization in the country and by numerous organizations representing women, minorities, children, and senior citizens.

The reason for this widespread opposition is clear. H.R. 3236 would drastically reduce benefits to families and to young, severely disabled workers.

Supporters of the bill have claimed that such cuts are necessary to reduce the "high" replacement ratio of benefits to previous earnings. However, social security disability insurance benefits are based upon average lifetime earnings, not earnings immediately prior to disability. Thus, a replacement ratio of 87 percent means that the disabled person and his family are receiving only 87 percent of average lifetime earnings, not 87 percent of actual previous earnings.

What does this mean to a disabled worker and his family? Under current law, a severely disabled person with average lifetime wages of $700 per month receives $328.40 per month in benefits if he had no dependents. The maximum family benefit that the worker with a family could receive would be $612.60, regardless of the size of his family or his salary before he became disabled. If H.R. 3236 is passed, the maximum family benefit allowed for a lifetime average of $700 per month would be $492.60, or $120 less than the current amount.

A young disabled worker would be penalized even more severely than would a disabled worker with a family. At the present time, all social security recipients are allowed to exclude their five lowest earnings years when averaging their lifetime earnings. If H.R. 3236 is passed, disabled persons under the age of 47 would not be allowed the full 5-year exclusions. This reduction in dropout years will lower their average wages upon which benefit levels are based. If they have families to support, the combination of a "cap" on family benefits and the reduction in dropout years can be substantial.

It is estimated that the reduction in dropout years and the "cap" on family benefits will reduce the cost of the DI program by $1.8 billion over a 5-year period. Every cent of that $1.8 billion, however, will be "saved" by reducing benefits to severely disabled workers and their families.

During the early 1970's, the disability insurance program faced increasing costs, increasing numbers of new recipients, and a serious financing problem for the future. Since that time, however, the number of new recipients has decreased, the benefit formula has been revised, and the trust fund has been pronounced sound by its trustees.

I urge my colleagues to delay action on the disability insurance program so that beneficiaries who are most dependent upon the system are not penalized needlessly by injudicious congressional action. The benefit cuts that have been proposed in H.R. 3236 are not minor, and the effect of those changes will be to undermine the very purpose of the disability insurance program.●

Mr. PICKLE. Mr. Chairman, I have no further requests for time.

Mr. ARCHER. Mr. Chairman, I have no further requests for time. and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment. No amendments are in order except for the amendments recommended by the Committee on Ways and Means. which shall not be subject to amendment. and an amendment printed in the CONGRESSIONAL RECORD of June 5. offered by the gentleman from Illinois (Mr. SIMON). which shall not be subject to amendment.

(The bill is as follows:)

H.R. 3236

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 "Disability Insurance Amendments of 1979".

TABLE OF CONTENTS

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 2. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits (whether or not such total benefits are otherwise subject to reduction under this subsection but in lieu of any reduction under this subsection which would otherwise be applicable) shall be reduced (before the application of section 224) to the smaller of—

"(A) 80 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 150 percent of such individual's primary insurance amount.".

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a) (6) and (7)" and inserting in lieu thereof "section 203(a) (7) and (8)".

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial eligibility for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) begins after 1978, and whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins after 1979.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 3. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits or who has died (except as provided in the second sentence of this subparagraph), by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount after his death or attainment of age 65 or an subsequent eligibility for disability insurance benefits unless prior to the month in which he dies, attains such age, or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit. If an individual described in clause (ii) is determined in accordance with regulations of the Secretary to have been responsible for providing (and to have provided) the principal care of a child (of such individual or his or her spouse) under the age of 6 throughout more than 6 full months in any calendar year which is included in such individual's elapsed years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 5) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual provided such care throughout more than 6 full months in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the smallest, and (III) this sentence shall apply only to the extent that its application would result in a higher primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.".

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins on or after January 1, 1980; except that the third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months after December 1980.

WORK INCENTIVE—SGA DEMONSTRATION PROJECT

SEC. 4. (a) The Commissioner of Social Security shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries to the end that savings will accrue to the Trust Funds.

(b) The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any prospective system either locally or nationally.

(c) In the case of any experiment or demonstration project under subsection (a), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner of Social Security to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) The Commissioner of Social Security shall submit to the Congress no later than January 1, 1983, a final report on the experiments and demonstration projects carried out under this section together with any related data and materials which he may consider appropriate.

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

"(j) Expenditures made for experiments and demonstration projects under section 4 of the Disability Insurance Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 5. Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to the individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs

or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions.".

PROVISION OF TRIAL WORK PERIOD FOR DISABLED WIDOWS AND WIDOWERS; EXTENSION OF ENTITLEMENT TO DISABILITY INSURANCE AND RELATED BENEFITS

SEC. 6 (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f),".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(3) The amendments made by this subsection shall apply with respect to individuals whose disability has not been determined to have ceased prior to the date of the enactment of this Act.

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof "or, if later (and subject to subsection (e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(B) Section 202(d)(1)(G) of such Act is amended by—

(i) by redesignating clauses (I) and (II) as clauses (I) and (II), respectively,

(ii) by inserting "the later of (I)" immediately before "the third month", and

(iii) by striking out "or (if later)" and inserting in lieu thereof the following: "(or, if later, and subject to section 223(e), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A)), or (II)".

(C) Section 202(e)(1) of such Act is amended by striking out the period at the end inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(D) Section 202(f)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"(e) No benefit shall be payable under subsection (d), (e), or (f) of section 202 or under subsection (a)(1) to an individual for any month after the third month in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of secton 222(c)(4)(A).".

(3) Section 226(b) of such Act is amended—

(A) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month" and

(B) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months."

(4) The amendments made by this subsection shall apply with respect to individuals whose disability or blindness (whichever may be applicable) has not been determined to have ceased prior to the date of the enactment of this Act.

ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

SEC. 7. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

(c) The amendments made by this section shall apply with respect to hospital insurance or supplemental medical insurance benefits for months after the month in which this Act is enacted.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY ALLOWANCES

SEC. 8. (a) Section 221(a) of the Social Security Act is amended to read as follows:

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may make again disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt,

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

"(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.".

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).".

(c) Section 221(c) of such Act is amended to read as follows:

"(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is not under a disability (as so defined) or that such individual's disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination and before any benefits are paid on the basis thereof.

"(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 30 percent of all such determinations made by State agencies in the fiscal year 1980,

"(B) at least 60 percent of all such determinations made by State agencies in the fiscal year 1981, and

"(C) at least 80 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1981.".

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Therefore, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 9. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentences: "Any such decision by the Secretary shall contain a statement of the case setting forth (1) a citation and discussion of the pertinent law and regulation, (2) a list of the evidence of record and a summary of the evidence, and (3) the Secretary's determination and the reason or reasons upon which it is based. The statement of the case shall not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant shall be informed of its existence, and it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.".

(b) The amendment made by subsection (a) shall apply with respect to decisions made on and after the first day of the second month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 10. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).".

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 11. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;".

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 12. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than January 1, 1980, a report recommending the establishing of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

"Cost of Rehabilitation Services From Trust Funds

SEC. 13. (a) Section 222(d) of the Social Security Act is amended to read as follows:

"COST OF REHABILITATION SERVICES FROM TRUST FUNDS

"(d)(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse—

"(i) the general fund in the Treasury of the United States for the Federal share, and

"(ii) the State for twice the State share,

of the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in their performance of substantial gainful activity which lasts for a continuous period of 12 months, or which result in their employment for a continuous period of 12 months in a sheltered workshop meeting the

requirements applicable to a nonprofit rehabilitation facility under paragraphs (8) and (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and (10)(L)). The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity or their employment in sheltered workshops, and the determination of the amount of costs to be reimbursed under this subsection, shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

"(2) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

"(3) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

"(A) the total amount to be reimbursed for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(4) For the purposes of this subsection the term 'vocational rehabilitation services' shall have the meaning assigned it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.

"(5) The Secretary is authorized and directed to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries under this title to the end that maximum savings will result to the Trust Funds. On or before January 1, 1980, the Secretary shall transmit to the President and the Congress a report which shall contain his findings and any conclusions and recommendations he may have.".

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1980.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 14. (a) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment on which the individual's entitlement to such benefits is based has or may have ceased if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(b) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 15. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.".

(b) The amendment made by subsection (a) shall apply with respect to evidence supplied on or after the date of the enactment of this Act.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 16. Section 201 of the Social Security Act (as amended by section 4(e) of this Act) is amended by adding at the end thereof the following new subsection:

"(k) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under section 221, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to such determinations. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 17. Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) In any case where an individual is or has been determined to be under a disability, unless a finding is or has been made that such disability is permanent, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administation of this title.".

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. PICKLE. Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, considered en bloc, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The committee amendments are as follows:

Page 3, line 2, after "subsection" insert "other than paragraphs (3)(A), (3)(C), and (5)".

Page 4, after line 3, insert the following new paragraph:

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 2(a)(3) of the Disability Insurance Amendments of 1979).".

Page 4, line 25, strike out "or who has died".

Page 5, lines 12 and 13, strike out "he dies, after "subparagraph),".

Page 5, line 10, strike out "death or".

Page 5, lines 12 and 13, strike out "he dies, attains such age, or" and insert in lieu thereof "he attains such age or".

Page 9, line 15, strike out the comma.

Page 19, line 6, strike out "30 percent" and insert in lieu thereof "15 percent".

Page 19, line 9, strike out "60 percent" and insert in lieu thereof "35 percent".

Page 19, line 12, strike out "80 percent" and insert in lieu thereof "65 percent".

Page 21, after line 6, insert the following new subsection:

(h) The Secretary of Health, Education, and Welfare shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate by January 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the plan for action by such committees, or for submittal by such committees with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws.

Page 22, strike out the sentence beginning on line 6.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

□ 1720

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: Page 29, line 15, strike out "1980" and insert in lieu thereof "1981".

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from New York.

(Mr. RICHMOND asked and was given permission to revise and extend his remarks.)

Mr. RICHMOND. Mr. Chairman, I thank the gentleman from Illinois for yielding. I rise in opposition to H.R. 3236. I would like to associate myself with the remarks of my distinguished colleague, the gentleman from Florida.

Mr. Chairman, I rise in opposition to H.R. 3236, the Social Security Disability Insurance Amendments of 1979. Certainly, nobody can argue with the goal of returning the disabled to useful employment. When H.R. 3236 was in the process of being drafted and considered in the Ways and Means Committee, we

held high hopes that the legislation would provide appropriate incentives to get the disabled back to work.

Unfortunately, in the form in which H.R. 3236 comes before us, it will punish all recipients of social security disability benefits—those who can be rehabilitated and those who can never be rehabilitated, either under this bill or any other set of incentives we might propose.

With H.R. 3236 we are confronted with a piece of legislation which clearly contains valuable work incentive provisions, but, at the same time, it seriously undercuts the confidence that workers and their families have every right to place in the social security system.

All of the constituents who have contacted me regarding this legislation have urged me to oppose H.R. 3236, and I have heard from dozens of organizations and coalitions representing the elderly, the disabled, workers and retirees, and all of them vigorously and adamantly oppose H.R. 3236. Among those groups are: S.O.S. (Save Our Security) a Coalition to Protect Social Security; the National Organization for Women; the Community Service Society; the American Coalition of Citizens with Disabilities; the AFL–CIO; the National Council of Senior Citizens the National Association for Retarded Citizens; the Paralyzed Veterans of America; the Eastern Paralyzed Veterans Association; the Grey Panthers of New York City and the Brooklyn Grey Panthers.

Many of these groups see this legislation as a dangerous precedent for future assaults on the social security system. If reductions in disability benefits can be made today in H.R. 3236, perhaps reductions will be made tomorrow in benefits for widows, orphans, dependent children, or the poorest of our Nation's elderly.

Mr. Chairman, there are better ways to get at abuses of the system than to punish all recipients. Even more importantly, if we were to approve this legislation before us, we would be sending a shock wave throughout our Nation affecting all men and women who have contributed to social security all their working lives. If we were to approve H.R. 3236 we would be sending a message that the promises we have made—in law—over the more than 40 years since the social security system was initiated are not to be relied upon. I therefore urge the defeat of H.R. 3236.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague the gentleman from Virginia.

(Mr. FISHER asked and was given permission to revise and extend his remarks.)

Mr. FISHER. Mr. Chairman, I rise in support of this bill.

Mr. Chairman, I would like to express my support for H.R. 3236, the Social Security Disability Insurance Amendments of 1979.

The social security disability insurance program replaces earnings lost by workers who are unable to continue working because of a disability. Disabled workers with dependents receive additional benefits. The disability insurance amendments make a number of changes and improvements in the program. The bill provides incentives for disabled people to return to work and improvements in the administration of the program.

Disabled people may want to attempt to return to work, but may fear the loss of the cushion provided by disability insurance and medical benefits. Several provisions in this bill will encourage disabled people to take the difficult step of attempting to work. If the work effort does not succeed, the disabled person will know that his eligibility for benefits will not be jeopardized. Among the work incentive provisions are the following: A longer trial work period during which a disabled worker can test his ability to work without losing either benefits or eligibility for benefits, an extended period during which disabled beneficiaries who return to work are eligible for medical benefits, and a deduction of extraordinary work expenses from a beneficiary's earnings in order to determine continued eligibility.

Although the provisions for work incentives and the ones improving administration of the program are not controversial, two other sections dealing with benefit levels are. One section makes a change in the limitation on family benefits. Currently the law limits the total amount that can be paid to a disabled worker and his dependents. The worker receives his full benefit—100 percent. With one dependent, the worker can also receive a dependent's benefit which is 50 percent of the worker's basic benefit. In some cases, an additional dependent increases the worker's benefit, but by less than another 50 percent of the basic benefit; the amount allowed for an additional dependent is based on the level of the worker's benefit. The maximum benefit that can be paid to a disabled worker with a family varies from 150 percent of the basic benefit to 180 percent, with the lower limit applying to those with lower benefits. The disability insurance amendments make all families subject to the 150-percent limit, or to a limit of 80 percent of the worker's predisability earnings, whichever is lower. This change affects only future beneficiaries.

Over the last decade, average benefits for disabled workers with families have increased substantially. In 1967, these beneficiaries had 60 percent of their predisability earnings replaced by disability benefits. Ten years later the replacement rate had increased to 80 percent. Many analysts consider such high replacement rates undesirable. Because disability benefits are nontaxable, it is even possible for a disabled worker to have more disposable income than he had while he was working. Disabled beneficiaries who could return to work are discouraged from rehabilitation efforts when benefits are so high. Even in the case of beneficiaries who can never be expected to work again, sound public policy should not provide benefit rates at such a high level. People who do not work should not be better off financially than those who do.

The second feature of the bill that has aroused controversy is the reduction in the number of dropout years for younger workers. Benefits are calculated on the basis of lifetime earnings. Presently all disabled workers are allowed to drop out their lowest 5 years of earnings before their benefits are calculated. This 5-year drop-out provision is more advantageous to younger workers than older ones because 5 years is a bigger proportion of their careers. The bill varies the number of drop-out years by age. The full 5 years would be allowed only to workers over age 47.

This variable drop-out years provision will improve the relationship between older and younger disabled workers' benefits. A young worker should not be able to receive higher benefits than an older worker who was employed for many years when wages were lower than they have been recently. The new provision will correct the disparity between the two groups and be more equitable.

The 1979 Disability Insurance Amendments contain a number of provisions to encourage work efforts among the disabled and improve the administration of the disability insurance program. It assures the active workers who pay the taxes to support this program that equitable benefits will be provided to individuals and families who suffer the misfortune of a disability that takes them out of the workforce.

I urge my colleagues to support this bill.

Mr. SIMON. Mr. Chairman, this amendment I believe is noncontroversial and I hope will be accepted by this body.

Under this bill as it was originally adopted by the Ways and Means Committee, the effective date would be fiscal year 1981. This bill would impose on State rehabilitation services, vocational rehabilitation services some appreciable additional burdens. This was recognized in the Ways and Means Committee report where it says "under the committee bill," and I am quoting the Ways and Means report now, "the effective date is fiscal year 1981 to provide for an orderly transition and for adjustment of the authorization of appropriation for the regular vocational rehabilitation program which is within the jurisdiction of the Education and Labor Committee.

"This is very important if the level of support for VR services to SSDI beneficiaries is to be maintained."

This is a complicated area. I think everyone recognizes that. I talked to the chief sponsor, my colleague from Texas, and requested that we postpone the date 1 fiscal year so that we can take a good look and make sure we know what we are doing in the way of providing assistance to State vocational rehabilitation services.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman.

Mr. PICKLE. The gentleman, I know, understands that the committee has looked at the dates and is perfectly agreeable to extending it from 1981 to 1982. We think it is in line. It is a split jurisdiction matter and it properly is resting in the gentleman's committee. We will go the extra year and we accept the gentleman's amendment on this side.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague from Utah.

Mr. MARRIOTT. Mr. Chairman, I just want to get one thing straight. If we are going to extend this for a year, why do we not go back to committee and work on it for a year and come back? I do not understand what we are doing by the gentleman's amendment. Why not just vote this down and go back to committee, and then come back with a bill that solves the problem the gentleman has raised?

Mr. SIMON. If I could respond to my colleague from Utah, frankly this is an area that is exceedingly complicated. We are talking about, No. 1, the kind of support levels that the States can provide the State of Utah, and the State of Texas and the other States. We are talking about the level of support the Federal Government ought to provide. These are things one just cannot overnight go into. I think we would be wise in adopting this amendment at this time.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, this side accepts the amendment.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, we have no objections to the amendment and are completely pleased to accept it.

Mr. SIMON. Mr. Chairman, I yield back the balance of my time.

Mr. PERKINS. Mr. Chairman, it is with a feeling of regret that I must announce that I must vote against enactment of H.R. 3236.

My regret is occasioned by two reasons:

First, there are provisions in the bill which I certainly believe are desirable.

Secondly, I am aware of the hard work that the bill's sponsor, the gentleman from Texas (Mr. PICKLE) has put into bringing this bill to the floor. I have great respect for his dedication and his legislative skill.

Although undoubtedly the legislation is well intentioned, what is being advanced here today as a reform of disability administrative determinations in fact will reduce benefits that can be expected by workers who in the future will be confronted by the tragedy of disabling work injuries.

As I have indicated, I have reluctance in opposing the legislation because I do believe that disabled persons who want to go back to work should not lose their medicare coverage when they do so, nor should they be financially penalized by a decision to return to work when they can safely do so.

Features of the bill—

Which extend medicare protection for an additional 3 years after a disabled person returns to work;

Which permit automatic reinstatement for disabled persons who try to work but are not successful; and

Provisions which allow disabled persons to deduct impairment-related work expenses in determining whether they meet the disability earnings test.

All are desirable reforms of the social security disability program contained in H.R. 3236.

However, my view of section 2 and section 3 of the bill, which have the effect of reducing benefits, constitute regressive legislation of the worst sort and the evil these sections produce far overshadow any good feature the bill might have.

Let me cite an example of what this bill is trying to do under the guise of creating an economic incentive to return to work:

Assume that a worker would become disabled in 1980 with two dependents, and before disabled his earnings were $5,750. The current law would allow him $5,039 in disability benefits.

Understand, this is a big deal. The poverty level for a family of 3 is $5,000—but the committee bill would reduce this disability benefit to $4,600.

The fact is, you cannot force a disabled worker back to work—particularly where the disability sharply reduces the opportunity for any employment.

No, Mr. Chairman, this bill will not return the disabled to work.

But what we are doing by H.R. 3236 is budget cutting at the expense of thousands of the most needy American families.

It has been my experience that most disabled persons who can find and who can perform work are most anxious to do so.

This experience stems from frequent visits to the homes of individuals throughout the 27 Kentucky counties that it is my privilege to represent.

In 15 of the counties that I represent, 41 percent to 57 percent of the families are below the poverty level according to the most recent census data.

In 5, families below the poverty level were 30 percent to 37.5 percent.

Five more had in excess of 22.8 percent below the poverty level.

In 2 other counties, the comparable figures are 14.2 percent and 18.5 percent.

Being a rural district, the economic well-being of the residents has risen and fallen with what has happened generally with respect to the farmres' income. But in most of the counties the nature of the farming enterprise is marginal and provides at best a subsistence level of living for the families.

The economy of many of the rural areas depends upon the production of coal. Most of the coal operations are from very small operators whose annual tonnages are insignificant, but in the total, supply the Nation with a significant portion of its coal needs.

Thus, these scattered communities in the coal counties suffer even more severely than other coal-producing areas of the Nation because of the ups and downs of the coal situation.

Because of the isolation and remoteness of most of the communities in these 27 counties, health, medical, and nutritional services have been inadequate or nonexistent for decades.

Translated into human terms, this means that household, farm and mining injuries often project aggravated and lifelong disabilities.

One of the great social breakthroughs in my experience in Congress was when we were successful in enacting the disability provisions of the Social Security Act in 1956.

As I recall, it only passed the Senate by one vote.

This achievement was followed by a great disappointment on my part because, as a representative of the area that I have described, I saw harsh and restrictive bureaucratic regulations impede the just benefits that were due many disabled persons who could engage in no gainful employment.

For this reason, I have taken heart over the years in the liberalizing provisions of the disability provisions of the Social Security Act.

While it would serve no purpose to my colleagues, who are familiar with them, I want to stress that I regard as important the revision in the disability definition initiated in 1965, the reduction in quarters of coverage requirement in 1967, the liberalizing provisions of 1972 and the other additions enacted subsequent to 1965 which illustrate that our Government is, indeed, humanitarian.

I know that today, more than any other period in our history, we may be inclined to stress, out of some feeling of fiscal urgency, a tightening of the rules and regulations which determine a person's eligibility for disability benefits. But I want to stress a point that I know to be true—and that is that we have become too regimented and too bureaucratic in the determination of disability benefits.

I think this is particularly true in the case of congressional districts of the nature I am privileged to represent.

I hope that the Congress will look very carefully into what is happening in the rural areas of America with respect to benefit programs and reject legislation that could be disastrous for many needy families.

In initiating a claim for assistance, a rural inhabitant is at a great disadvantage, and with the new documentation that is being required for applicants for assistance, I feel that an unreasonable burden is being placed upon the inhabitants of rural areas.

It has always been disturbing to me that the executive and bureaucratic portion of our Government could be less compassionate than the legislative branch, but I feel that this is so, and I hope that all Members of Congress will be vigilant against the exercise of arbitrary administrative regulations in denying people benefits which their government intends them to receive.

Here, again, I want to stress that our goal is to help people in need.

Too often in devising neat administrative ways to do this we deny benefits to the very persons we as Members of Congress have in mind to help when we enact legislation.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Texas.

Mr. PICKLE. I realize the gentleman appeared before the committee and has some reservations about this particular bill.

Let me say to the gentleman the amendment before us is an amendment that was requested by the Education and Labor Committee, by Mr. SIMON, in order that the vocational rehabilitation program could more properly rest with the Education and Labor Committee and maintain a regular State-Federal relationship. It has nothing to do with the overall bill other than it was the gentleman's committee's request that we just extend it 1 full year before that committee takes over the program under its jurisdiction.

Mr. PERKINS. After the year expires the gentleman's modification of the disability provision as presently in the law takes effect, am I correct in that assessment?

Mr. PICKLE. This is 1979 and the gentleman has 3 years in order to make the adjustment in his committee and the Appropriations Committee. We do not take away money from the trust fund, we give an extra bonus, a double amount of money to the States.

Mr. PERKINS. Does not the gentleman from Texas think it would be in order to go back before his committee and to have further hearings, further study and see if we cannot come up with some justifiable amendments in addition to this amendment? I think we go overboard with only this amendment and leave the rest unchanged.

Mr. PICKLE. If the gentleman will yield further, I must say I am somewhat confused and almost startled that there would be a note of opposition. We had no requests for this in the committee. It was not considered. We thought in the committee we were doing exactly what the gentleman's committee wanted, and that is why we have agreed to it and asked the Rules Committee for the rule.

Mr. PERKINS. Let me say to the distinguished gentleman from Texas he certainly did not do what I had in mind. I came before the gentleman's committee and opposed the amendment as vigorously as I knew how to oppose it because I knew that the Social Security Administration had always been very tough insofar as these people are concerned.

□ 1730

Mr. PICKLE. Mr. Chairman, I remember the gentleman opposed the bill, but not this amendment. I think the gentleman should understand that this is an amendment that delays the transfer of routine expenditures from the trust fund for the vocational rehabilitation program over to the jurisdiction of the gentleman's committee. I do not remember the gentleman opposing that amendment.

Mr. PERKINS. I did not oppose that amendment, but I opposed the modification.

Mr. PICKLE. Yes. If we could get that vote through, we are in agreement on that amendment.

Mr. PERKINS. I opposed the modification to the disability provision. It is my opposition to the disability provision and not to the amendment of the gentleman from Illinois.

Mr. PICKLE. I thank the gentleman from Kentucky.

Mr. JOHN L. BURTON. Mr. Chairman, in order not to make a preferential motion, I ask unanimous consent to speak for 3 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHN L. BURTON. I ask the Chairman, what is the amount of money these people are getting now that is more than they got when they were working? Fifteen hundred dollars? Two thousand dollars a month on disability for being crippled?

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding. We have got a scale that goes all the way from $1,750 up to $16,000.

Mr. JOHN L. BURTON. Sixteen thousand dollars a month?

Mr. PICKLE. Annually. It is based on earnings.

Mr. JOHN L. BURTON. The point I am making is the gentleman is making a big point that people who are totally crippled are getting more money than they were making while they were working. I do not know anybody who would trade life or limb for more money.

Mr. PICKLE. I will say to the gentleman that is only with respect to family benefits. We do not take away any benefits they have earned and are entitled to.

Mr. JOHN L. BURTON. The gentleman is making a big point, my friend, the gentleman from Indiana, saying that there are people who are not working. In other words, there are people who are crippled who are getting more money because they happen to be in this program, with the cost of living getting more money than while they were working. I wonder if there is anybody in this Chamber who would become totally disabled in order to get a little bit more for being totally crippled for life than they would if they were still working.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Indiana.

Mr. JACOBS. I thank the gentleman for yielding.

I will point out to the gentleman that 80 percent of the average monthly wage means the gross monthly wage.

Mr. JOHN L. BURTON. If the gentleman will give me 1 more minute, I will let him go on.

Mr. JACOBS. I just want to say to the gentleman that that takes into account all of that, and the question still remains, who is going to pay the bill?

Mr. JOHN L. BURTON. I hear that the fund is in surplus. The gentleman from New York said that this fund is in surplus.

Mr. JACOBS. So was the social security fund a few years ago.

Mr. JOHN L. BURTON. But this fund was in surplus 75 years, and I do not think claiming people who are totally crippled because they are getting more money now maybe because of the cost-of-living index than they got when they were working is somehow ripping off the system.

Mr. JACOBS. Will the gentleman yield to make one point?

Mr. JOHN L. BURTON. I yield to the gentleman.

Mr. JACOBS. This is only scratching the surface. On top of that there are college scholarships that go to that disabled person's children that other people cannot afford for their children.

Mr. JOHN L. BURTON. That is fantastic. That is fantastic. I do not know what good health is worth, but I think it is worth more than a scholarship for my kid. We are talking about totally crippled people.

This is my time, and I am taking it back. We are talking about totally crippled children. We are talking about a trust fund that is secure for 75 years, and I think it is some kind of a red herring that the committee is using. You are not going to save all that much money when it is terrific reform telling somebody who is crippled for life the day after the bill passes, "Tough eggs, buddy. You are only going to get so much money."

Mr. PICKLE. If the gentleman will yield, I must say to the gentleman we are not saying that to the individual at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The amendment was agreed to.

The CHAIRMAN. Under the rule, no further amendments are in order, and under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes pursuant to House Resolution 310, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. QUILLEN

Mr. QUILLEN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. QUILLEN. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. QUILLEN moves to recommit the bill, H.R. 3236, to the Committee on Ways and Means.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BIAGGI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 235, nays 162, not voting 37, as follows:

[Roll No. 447]

YEAS—235

Abdnor	Duncan, Oreg.	Johnson, Colo.
Albosta	Duncan, Tenn.	Jones, N.C.
Alexander	Early	Jones, Okla.
Anderson, Ill.	Edwards, Ala.	Jones, Tenn.
Andrews, N.C.	Edwards, Okla.	Kazen
Andrews, N. Dak.	Emery	Kelly
Anthony	English	Kemp
Archer	Erdahl	Kindness
Ashbrook	Erlenborn	Kramer
Ashley	Ertel	LaFalce
Aspin	Evans, Del.	Lagomarsino
AuCoin	Evans, Ga.	Latta
Bafalis	Evans, Ind.	Leach, Iowa
Baldus	Fascell	Leach, La.
Bauman	Fazio	Leath, Tex.
Beard, Tenn.	Fenwick	Lee
Bedell	Findley	Lent
Bellenson	Fisher	Levitas
Benjamin	Flippo	Lewis
Bennett	Florio	Lloyd
Bereuter	Foley	Loeffler
Bevill	Forsythe	Lott
Boland	Fountain	Luken
Bolling	Fowler	Lundine
Bonker	Frenzel	Lungren
Bouquard	Gephardt	McClory
Bowen	Giaimo	McCloskey
Breaux	Gibbons	McCormack
Brinkley	Gingrich	McDonald
Brooks	Ginn	McHugh
Broomfield	Glickman	Madigan
Brown, Ohio	Goldwater	Martin
Broyhill	Goodling	Mathis
Burlison	Gore	Mattox
Butler	Gradison	Mazzoli
Byron	Grassley	Michel
Carney	Green	Mikva
Chappell	Grisham	Miller, Ohio
Cheney	Gudger	Montgomery
Coelho	Guyer	Moore
Coleman	Hagedorn	Moorhead, Pa.
Collins, Tex.	Hall, Tex.	Murphy, N.Y.
Conable	Hamilton	Murphy, Pa.
Corcoran	Hance	Neal
Coughlin	Hanley	Nelson
Courter	Hefner	Nichols
Crane, Daniel	Heftel	O'Brien
Crane, Philip	Hightower	Panetta
Daniel, Dan	Hillis	Paul
Daniel, R. W.	Hinson	Pease
Dannemeyer	Hubbard	Petri
Davis, Mich.	Huckaby	Pickle
de la Garza	Hughes	Preyer
Derrick	Hyde	Price
Devine	Ichord	Pritchard
Dicks	Ireland	Pursell
Dingell	Jacobs	Quayle
Donnelly	Jeffries	Railsback
Downey	Jenkins	Regula
	Jenrette	Rhodes
Ritter	Shuster	Trible
Robinson	Simon	Ullman
Rose	Skelton	Vander Jagt
Rostenkowski	Snowe	Volkmer
Roth	Solomon	Walgren
Royer	Spence	Watkins
Rudd	Stangeland	White
Runnels	Stanton	Whitehurst
Russo	Steed	Whitley
Sabo	Stenholm	Whittaker
Satterfield	Stockman	Williams, Mont.
Sawyer	Stratton	Wilson, Bob
Schulze	Stump	Wilson, Tex.
Sebelius	Swift	Winn
Sensenbrenner	Synar	Wirth
Shannon	Tauke	Wright
Sharp	Taylor	Wyatt
Shelby	Thomas	Wydler
Shumway	Thompson	

NAYS—162

Addabbo	Garcia	Natcher
Akaka	Gaydos	Nedzi
Ambro	Gilman	Nolan
Anderson, Calif.	Gonzalez	Nowak
Annunzio	Gramm	Oakar
Applegate	Gray	Oberstar
Atkinson	Guarini	Obey
Badham	Hall, Ohio	Ottinger
Bailey	Hammer-schmidt	Pashayan
Barnes	Harkin	Patten
Beard, R.I.	Harris	Pepper
Bethune	Harsha	Perkins
Biaggi	Hawkins	Peyser
Bingham	Heckler	Quillen
Blanchard	Hollenbeck	Rahall
Boggs	Holtzman	Rangel
Boner	Hopkins	Ratchford
Bonior	Horton	Reuss
Brademas	Howard	Richmond
Brodhead	Hutto	Rinaldo
Buchanan	Jeffords	Rodino
Burgener	Johnson, Calif.	Roe
Burton, John	Kildee	Rosenthal
Burton, Phillip	Kogovsek	Santini
Carr	Kostmayer	Scheuer
Cavanaugh	Lederer	Schroeder
Chisholm	Lehman	Selberling
Clay	Leland	Slack
Collins, Ill.	Long, La.	Smith, Nebr.
Conte	Long, Md.	Snyder
Corman	Lowry	Solarz
D'Amours	Lujan	Stack
Danielson	McDade	Staggers
Daschle	McKay	Stewart
Davis, S.C.	McKinney	Stokes
Deckard	Maguire	Studds
Dellums	Markey	Traxler
Derwinski	Marks	Udall
Diggs	Marlenee	Van Deerlin
Dixon	Marriott	Vanik
Dodd	Matsui	Vento
Dornan	Mavroules	Walker
Dougherty	Mica	Wampler
Drinan	Mikulski	Waxman
Eckhardt	Mineta	Weiss
Edgar	Minish	Whitten
Edwards, Calif.	Mitchell, N.Y.	Wilson, C. H.
Fary	Moakley	Wolff
Ferraro	Mollohan	Wolpe
Fish	Moorhead, Calif.	Wylie
Fithian	Mottl	Yates
Ford, Mich.	Myers, Ind.	Yatron
Ford, Tenn.	Myers, Pa.	Young, Fla.
Frost		Zablocki
		Zeferetti

NOT VOTING—37

Barnard	Holland	Roybal
Brown, Calif.	Holt	Smith, Iowa
Campbell	Kastenmeier	Spellman
Carter	Livingston	St Germain
Clausen	McEwen	Stark
Cleveland	Miller, Calif.	Symms
Clinger	Mitchell, Md.	Treen
Conyers	Moffett	Weaver
Cotter	Murphy, Ill.	Williams, Ohio
Dickinson	Murtha	Young, Alaska
Flood	Patterson	Young, Mo.
Fuqua	Roberts	
Hansen	Rousselot	

□ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Murphy of Illinois for, with Mr. Mitchell of Maryland against.

Mr. Livingston for, with Mr. Carter against.

Mr. Williams of Ohio for, with Mr. Clinger against.

Until further notice:

Mr. Murtha with Mr. Conyers.
Mr. Roberts with Mr. Stark.
Mr. Fuqua with Mr. Young of Missouri.
Mr. Cotter with Mr. Moffett.
Mr. Barnard with Mr. Smith of Iowa.
Mr. Brown of California with Mr. Symms.
Mr. Miller of California with Mr. Young of Alaska.
Mr. Patterson with Mr. Hansen.
Mr. St Germain with Mr. Dickinson.
Mrs. Spellman with Mr. Rousselot.
Mr. Holland with Mr. Cleveland.
Mr. Kastenmeier with Mr. Clausen.
Mr. Roybal with Mr. Campbell.
Mr. Weaver with Mr. McEwan.
Mr. Flood with Mrs. Holt.

Messrs. DANNEMEYER, McHUGH, RITTER, CARNEY, and BLANCHARD changed their votes from "nay" to "yea."

Messrs. GUARINI, STAGGERS, DECKARD, McDADE, D'AMOURS, FORD of Michigan, NEDZI, BLANCHARD, RITTER, and HARKIN changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Excerpts only
(House passed bill with one amendment)

II

96TH CONGRESS
1ST SESSION

H. R. 3236

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10 (legislative day, JUNE 21), 1979
Read twice and referred to the Committee on Finance

AN ACT

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

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 "Disability Insurance Amendments of 1979".

TABLE OF CONTENTS

VOCATIONAL REHABILITATION SERVICES FOR DISABLED INDIVIDUALS

SEC. 13. (a) Section 222(d) of the Social Security Act is amended to read as follows:

"Costs of Rehabilitation Services From Trust Funds

"(d)(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse—

"(i) the general fund in the Treasury of the United States for the Federal share, and

"(ii) the State for twice the State share,

of the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in their performance of substantial gainful activity which lasts for a continuous period of 12 months, or which result in their employment for a continuous period of 12 months in a sheltered workshop meeting the requirements applicable to a nonprofit rehabilitation facility under paragraphs (8) and (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and (10)(L)). The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity or their employment in sheltered workshops, and the determination of the amount of

costs to be reimbursed under this subsection, shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

"(2) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

"(3) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

"(A) the total amount to be reimbursed for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(4) For the purposes of this subsection the term 'vocational rehabilitation services' shall have the meaning assigned

it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.

"(5) The Secretary is authorized and directed to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries under this title to the end that maximum savings will result to the Trust Funds. On or before January 1, 1980, the Secretary shall transmit to the President and the Congress a report which shall contain his findings and any conclusions and recommendations he may have.".

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1981.

LEGISLATIVE REPORT

SOCIAL SECURITY ADMINISTRATION

Number 3

September 26, 1979

STATUS OF SOCIAL SECURITY DISABILITY, REFUGEE, AND WELFARE REFORM LEGISLATION

House Action on Social Security Disability Legislation

On September 6, 1979, the House of Representatives passed H.R. 3236, a bill to modify the social security disability cash benefits program, by a vote of 235 to 162.

The House passed the bill as reported by the House Ways and Means Committee with one change. The House pushed back the effective date for the provision modifying Federal payment for the cost of rehabilitation services to fiscal years after September 1981, a delay of 1 year.

Attached is a summary of the provisions in H.R. 3236, as passed by the House.

Senate Action on Refugee Legislation

On September 6, 1979, the Senate passed S. 643, the "Refugee Act of 1979," by a vote of 85 to 0. An amendment was adopted which would provide 100% Federal reimbursement of cash and medical assistance to all Indochinese refugees until September 30, 1980. Another amendment was adopted which would provide 100% Federal reimbursement permanently for State costs associated with current Cuban refugees who receive SSI (eligibility for SSI was established prior to October 1, 1978).

The House Judiciary Committee is in the process of marking up H.R. 2816, the "Refugee Act of 1979."

House Ways and Means Committee Action on Welfare Reform Legislation

On September 13, 1979, the House Ways and Means Committee approved the Administration's Welfare Reform Bill (H.R. 4904) as amended, by a vote of 21 to 14. The bill will now be scheduled for House action on the floor. The committee agreed to seek arrangements from the Rules Committee that would bar amendments to the bill, place a 2 hour limit on debate, and allow only one motion to recommit to the committee.

Attached is a summary of the amendments to H.R. 4904 which were adopted by the Ways and Means Committee.

Stanford G. Ross
Commissioner

Attachments 2

H.R. 3236 AS PASSED BY THE HOUSE OF REPRESENTATIVES

Limit Total Family Benefits in Disability Cases

In the case of disabled workers who become entitled to disability insurance benefits in the future, maximum family benefits for any month would be limited to 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of primary insurance amount (PIA), whichever is lower (but with a minimum guarantee of 100 percent of the PIA).

This provision would apply only to workers who become disabled after 1978 and whose initial entitlement to disability benefits begins after 1979. (Where the first month for which the worker received a disability benefit is December 1979 or earlier, the present law family maximum provisions generally would apply.)

Replacement rates (benefits as a percent of the earnings on which they are based), as shown below, can be very high for families of some disabled workers under present law. The payment of benefits that equal or exceed what a person can earn may encourage impaired people to claim disability benefits and discourage beneficiaries from seeking vocational rehabilitation or trying to return to work.

Family Benefit Replacement Rates

AIME	Present Law	H.R. 3236
$ 135	135%	90%
300	105	80
700	87	72
1,100	74	63
1,500	63	54

Reduce Number of Dropout Years for Younger Disabled Workers

The number of years of low earnings that a disabled worker can eliminate ("dropout") for the purpose of computing disability benefits would vary by the age of the worker at the time of disability, according to the following schedule:

Worker's Age	Number of Dropout Years
Under 27	0
27 through 31	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The proposal includes a provision to help protect people who have years of low or no earnings because they were taking care of children. This provision would allow 1 dropout year for each year in which the worker provides principal care of a child under age 6. The number of child-care dropout years and the variable dropout years combined could not exceed 5.

This section would apply only to workers whose initial entitlement to disability benefits begins after 1979. The child-care dropout provisions would be effective for workers who become disabled after 1980, but would take into account past years of low earnings in which a worker provided child-care services.

Under the present dropout year provisions, a worker who becomes disabled while young can get a higher benefit than a worker with comparable earnings who becomes disabled at an older age. This difference in potential benefits depending upon the worker's age at the time of disability would be substantially reduced by making the number of years that can be dropped more nearly proportional to the length of time over which earnings are averaged.

As under present law, disabled workers reaching age 65 would be converted to the retirement rolls; their benefits would not be recomputed to include additional dropout years. Survivor benefits would not be affected by the change in dropout years.

Work Incentive - Substantial Gainful Activity (SGA) Demonstration Project

The Commissioner of Social Security would be required to develop and carry out experiments and demonstration projects on the treatment of work activity under the DI program in order to identify approaches to encourage work activity. Further, the provision would allow the Secretary to waive compliance with DI and Medicare requirements, as necessary, to carry out these projects. The Commissioner would be required to notify the Congress at least 90 days in advance of any experiment or project, make periodic progress reports to the Congress, and submit a final report to the Congress no later than January 1, 1983.

The expenditures for these experiments would be made from the OASDI trust funds.

Extraordinary Work Expenses Due to Severe Disability

The bill would deduct the cost of any impairment-related work expenses (e.g., attendant care, medical devices, equipment, and similar items and services) paid for by the beneficiary from the disabled beneficiary's earnings in order to determine whether the worker was engaging in SGA.

The provisions would be effective on enactment.

Provision of Trial Work Period for Disabled Widows and Widowers; Extension of Entitlement to Disability Insurance and Related Benefits

First, the same trial work period applicable to disabled workers would be provided for disabled widows and widowers.

Second, a disabled beneficiary who completes a trial work period and whose benefits are terminated because of SGA would be automatically reentitled to benefits (i.e., without subsequent application or determination of disability) if SGA stops during the 12 months following termination. (This would apply only to disabled beneficiaries who have not medically recovered.) Benefits would be payable in the 12-month period following termination only for months the beneficiary does not engage in SGA.

Third, Medicare coverage would be extended for disabled beneficiaries who have completed a trial work period and whose benefits are terminated because of SGA (but who have not medically recovered). Medicare entitlement would continue for 36 months after termination of DI benefits.

These provisions would be effective with respect to individuals whose disability has not ceased before enactment.

Medicare Waiting Period

The proposals would eliminate the second Medicare 24-month waiting period for a former disabled beneficiary who becomes disabled and reentitled within 60 months after the previous disability benefits stopped (or within 84 months in the case of an adult disabled since childhood, a disabled widow, or a disabled widower). Where a disabled person was initially on the cash benefit rolls but not for 24 months and did not receive Medicare coverage, the months of entitlement to cash benefits would count toward the Medicare waiting period if the subsequent disability occurred within the specified time.

This provision would be effective for months after the month of enactment.

Disability Determinations Under State Agreements; Federal Review of State Agency Allowances

The Secretary would be given authority to establish, through regulations, performance standards and procedures for the State disability determination process.

States would be given the option of (1) continuing to administer the program in compliance with these regulations or (2) turning over administration to the Federal Government after written notice. If a State elected to administer the program but later failed to comply with the regulatory standards, the Secretary would be authorized to take over direct administration.

This provision would be effective 12 months following the month of enactment.

The Secretary would also be required to review State agency determinations before benefits could be paid, according to the following schedule:

- at least 15 percent in fiscal year 1980
- at least 35 percent in fiscal year 1981
- at least 65 percent in fiscal year 1982 and after

Information to Accompany Secretary's Decisions As to Claimant's Rights

Notices to claimants for OASDI benefits at either the initial or reconsideration level would have to contain a citation of pertinent law and regulations, a list of the evidence of record and a summary of the evidence, and the reasons for the decision.

This provision would apply to decisions made on and after the first day of the second month following the month of enactment.

Closed Evidentiary Record After a Hearing Decision

This provision would prevent the introduction of new evidence on an application after the decision is made at the administrative hearing.

The provision would apply to applications filed after the month of enactment.

Limitation on Court Remands

This provision would permit a court, on the motion of the Secretary for good cause, to remand a case to the Secretary. Also, the court at any time would be able to order additional evidence to be taken but only upon a showing that there is new and material evidence (and there is good cause for not having submitted the evidence previously).

The provision is effective on enactment.

Time Limitations for Claims Decisions

The Secretary would be required to report to the Congress by January 1, 1980, on appropriate time limitations within which OASDI decisions should be made in initial, reconsideration, hearing, and Appeals Council cases.

Vocational Rehabilitation Services for Disabled Individuals

Federal payment for the cost of rehabilitation services would be changed to give States additional incentive to successfully rehabilitate social security disabled beneficiaries. If the rehabilitation is successful, States would continue to be reimbursed from the DI trust fund for the cost of providing the services, and in addition would get a bonus (20 percent of cost). If the rehabilitation is unsuccessful, States would receive only 80 percent of that cost--from the general fund of the Treasury (not the trust fund). A rehabilitation would be considered successful if the services enable the beneficiary to engage in SGA for at least 12 continuous months.

The Secretary would be required to study and report to the Congress by January 1, 1980, alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries.

The provision would apply with respect to fiscal years after September 1981.

Persons In Vocational Rehabilitation Plans

This provision would permit benefits to continue after medical recovery for persons in approved rehabilitation programs, if SSA determines that continuing in such a program will increase the probability of the person going off the disability rolls permanently.

The provision would be effective on enactment.

Payment for Existing Medical Evidence

Payment from the trust funds would be made for required medical evidence which is submitted by non-Federal institutions and physicians in connection with DI claims.

The provision would be effective on enactment.

Payment of Certain Travel Expenses

Payment from the trust funds would be provided for travel expenses necessary for medical examinations required by SSA in conjunction with DI claims. Also, travel expenses incurred by claimants, their representatives, and witnesses to attend DI reconsideration interviews or hearings would be paid by the trust funds. (This is done now under appropriations authority.)

The provision would be effective on enactment.

Periodic Review of Disability Determinations

Unless a finding has been made that a beneficiary's disability is permanent, a person's medical condition would be reviewed by either the State agency or the Secretary at least once every 3 years.

The provision would be effective on enactment.

H.R. 4904 AS ORDERED REPORTED BY THE HOUSE WAYS AND MEANS COMMITTEE

AFDC

- The definition of "unemployment" for the Unemployed Parents' program will specify $500 for fiscal year (FY) 1980 as the maximum amount of allowable monthly earnings (i.e., full time work at the Federal minimum wage). Beginning with FY 1981, the Secretary may adjust the amount using Consumer Price Index (CPI) increases and the Federal minimum wage as guidelines.

- A minimum payment standard is mandated for child-only AFDC units. The minimum will be 60 percent (65 percent effective 10/1/81) of the difference between the three person poverty guideline and that for three persons plus the number of children in the family.

- The mathematical formula specified for computing the limitation on States' fiscal liability was revised to prevent the States' "base" expenditures from exceeding the increase in the CPI.

- A new section provides that current regulations, which require regular and annual reductions in error rates and impose sanctions for failure to do so, shall remain in effect until HEW completes its study of AFDC error rates and incorporates its recommendations for change into new regulations.

- Two pilot programs, one urban and one rural, are authorized for making payments in lieu of food stamps to AFDC recipients.

SSI

- Termination of Mandatory Minimum State Supplementation in Certain Cases. Sec. 214 (Mr. Rangel)

  Provides that the termination of mandatory minimum State supplementation protection would eliminate only those cases in which total income, including the title XVI benefit, and optional State supplementary payment equals or exceeds income, including the title XVI benefit and the individual's mandatory State supplementary payment amount (including cost-of-living increases passed along or added by the State) they otherwise would receive.

- o Adjustment of Retroactive Benefits Under Title II on Account of Advances of SSI Benefits. (Mr. Gephardt)

  Provides that retroactive benefits under title II would be reduced by the amount of SSI which would not have been paid if the title II benefit had been paid on a regular monthly basis throughout the period of entitlement, rather than retroactively.

- o Committee members agreed to remove from the bill section 218, Extension of Service Program for Disabled Children. This provision is contained in a separate bill, H.R. 4612 (Mr. Downey), which should be enacted more rapidly than H.R. 4904.

Proposed amendments which would have deleted the AFDC Federal assets test and allowed States to establish their own such test, provided for block grant funding to States to create their own welfare programs, and allowed States to impose a work requirement as a condition of eligibility for AFDC were all defeated.

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 96-104

SUPPLEMENTAL SECURITY INCOME DISABILITY AMENDMENTS OF 1979

APRIL 25, 1979.—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

together with

DISSENTING VIEWS

[To accompany H.R. 3464]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3464) to amend title XVI of the Social Secuity Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 2, line 14, strike out "clauses (ii) and (iii)" and insert in lieu thereof "clause (iii)".

Page 2, line 20, strike out "clauses (ii) and (iii)" and insert in lieu thereof "clause (iii)".

Page 3, line 6, strike out "(AND FOR THE BLIND)".

Page 4, strike out lines 1 through 23.

Page 4, line 24, strike out "(c) The amendments made by this section" and insert in lieu thereof "(b) The amendment made by subsection (a)".

Page 10, line 8, after "child" insert "age 18 or over".

Page 10, strike out lines 12 through 20.

Page 10, line 23, strike out "Sec. 8." and insert in lieu thereof "Sec. 7.".

Page 11, strike out the sentence beginning in line 5.

Page 11, line 17, strike out "Sec. 9." and insert in lieu thereof "Sec. 8.".

89-006 O

CONTENTS

I. Purpose and Summary

There are disabled Supplemental Security Income (SSI) recipients, including severely disabled individuals, who, despite their handicaps, are desirous of working and reducing to the extent possible their dependence on the SSI program. Under present SSI law, however, there are substantial disincentives for disabled recipients to seek or maintain employment. For the purposes of reducing these work disincentives, the following changes would be made in the SSI disability program, effective July 1, 1980:

(1) *SGA Determination.*—The "substantial gainful activity" (SGA) earnings limit, currently $280 a month, would be raised to the level at which an individual's monthly countable earnings equal the basic Federal SSI benefit for that month. Based on the currently projected July 1, 1979 monthly Federal SSI benefit of $208, under the bill the SGA earnings limit would be $481 a month for a disabled individual with no excludable "impairment related work expenses." In determining countable earnings for purposes of the SGA earnings limit, an individual's gross monthly earnings would be reduced by the first $65 of such earnings and 50 percent of remaining earnings. Individuals whose disabilities are sufficiently severe to result in a functional limitation necessitating special assistance in order for them to work would be allowed an additional "impairment related work expense disregard." These severely disabled individuals would be allowed to reduce their countable earnings by an amount equal to the cost of specified services, devices or other items which, because of their disability, they must have in order to be able to work, regardless of who pays for the necessary services. This "impairment related work expense disregard" would be applied to an individual's earnings before the "50 percent of remaining earnings disregard" is applied.

(2) *SSI Payment Determination.*—A "standard work related expense disregard" equal to 20 percent of gross earnings would be allowed in the determination of a disabled individual's monthly SSI payment. Individuals whose disabilities are sufficiently severe to result in a functional limitation requiring special assistance in order for them to work would be allowed an additional "impairment related work expense disregard" equal to the cost to the individual of any attendant care services, medical devices, equipment, prostheses, and similar items and services which are necessary for the individual to remain employed, whether or not such services or items are also needed to enable the person to carry out normal daily functions.

Under the bill, for purposes of determining the monthly SSI payment, the basic earnings disregards for a disabled individual would be:

The first $65 of monthly earnings (current law),

"Standard work related expense disregard" equal to 20 percent of gross earnings,

"Impairment related work expenses" of certain severely disabled individuals, plus

50 percent of remaining monthly earnings (current law).

(3) *Disability Status Without SSI Payments and Presumptive Disability Determination.*—A disabled SSI recipient would be allowed to retain disability status, without receiving SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. During this 12 month period, a person could immediately requalify for SSI payments if necessary because of a loss of or reduction in earnings. This 12 month period during which the individual would maintain disability status without SSI payments would follow the 9 month "trial work period," plus the 3 months allowed before actual termination of payments, provided under present law.

In addition, a person who loses title II (disability insurance) or SSI disability status due to earnings in excess of the SGA limit would be considered presumptively disabled if he or she reapplies for SSI benefits within four years following the loss of disability status. Such an individual would begin receiving SSI payments immediately upon a determination that he or she meets the income and assets tests and would continue to receive benefits unless and until it was determined that the disability requirements were not met.

In addition to the changes in the SSI disability program summarized above, the bill contains the following provisions:

(4) *SSI Demonstration Projects.*—The Secretary of HEW would be authorized to conduct experimental, pilot or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program. The Secretary, however, would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project. The Secretary could not require any individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at anytime his or her voluntary agreement to participate.

(5) *Deeming of Parents' Income to Disabled or Blind Children.*—For purposes of SSI eligibility determination, the "deeming" of parents' income would be limited to disabled or blind children under 18 regardless of student status. Those individuals through 21 who are receiving benefits at the time of enactment would be protected against loss of benefits due to this change.

(6) *Decision Notices for SSI Applicants.*—The Secretary of HEW would be required to provide SSI applicants with a decision notice containing a citation of the pertinent law and regulations, a summary of the evidence, and the reasons for the decision on their application.

(7) *SSI Payments During Participation in Rehabilitation Program.*—An SSI beneficiary could not be terminated due to medical recovery while he or she is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the person may be permanently removed from the disability benefit rolls.

II. Comparison With Present Law

ITEM	PRESENT LAW	H.R. 3464
1. "Substantial Gainful Activity" (SGA) Earnings Test (Sec. 2)	Under present law an individual can qualify for SSI disability payments if he or she "is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months." The Secretary of HEW is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in SGA is $280 a month.	For purposes of SSI disability determination, the SGA earnings limit would be raised from the current $280 a month to the point at which a disabled person's monthly "countable earnings" (i.e., gross earnings minus specified disregards) equal the basic Federal SSI benefit for that month. As of July 1, 1979, when the monthly Federal SSI payment for an individual, as currently projected, would be $208, the SGA earnings limit under this bill would be $481 per month for an individual with no excludable "impairment related work expenses." It would be higher for those severely disabled individuals who would be allowed an additional "impairment related work expense disregard" for costs of special assistance they required in order to work. As approved by the Committee, the changes in SGA do not take effect until July 1, 1980. Therefore, any cost-of-living increase in the Federal SSI benefit effective on or after July 1, 1980 would automatically increase the SGA limit above $481.

In determining "countable earnings" for purposes of SGA, the first $65 of monthly earnings would be disregarded. For those individuals whose disability is sufficiently severe to result in a functional limitation requiring special assistance in order for them to work, there would also be disregarded from earnings any "impairment related work expenses." These severely disabled persons would be allowed to disregard an amount equal to the cost of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for the individual to remain employed, regardless of who pays for the care or services and whether or not such assistance is also needed to enable the person to carry out normal daily functions. Also disregarded would be 50 percent of any earnings that remain after the initial $65 disregard and the disregard for qualifying "impairment related work expenses," if any, have been allowed.

II. Comparison With Present Law—Continued

ITEM	PRESENT LAW	H.R. 3464
		Summary of disregards allowed in determining countable earnings for purposes of SGA: 1. the first $65 of monthly earnings; 2. "impairment related work expenses" for certain severely disabled individuals; plus 3. 50 percent of remaining monthly earnings.
2. Earned Income Disregard in Determination of Monthly SSI Payments (Sec. 3)	In determining eligibility for and the amount of SSI benefits for the aged, blind and disabled, the first $65 of monthly earnings plus one-half of remaining earnings is disregarded. In addition, for *blind* and *disabled* applicants and recipients, the cost of an approved plan for self-support is disregarded. And, for the *blind* only, expenses reasonably attributable to the earnings of income (i.e., "work related expenses") are disregarded.	For the disabled, a standard work related expense disregard equal to 20 percent of gross earnings would be allowed in determining the monthly SSI payment. For certain severely disabled individuals who require special assistance in order to work, an additional "impairment related work expense disregarded," as described in item #1, would be allowed in the determination of the SSI monthly payment. In determining a person's SSI payment, however, only those impairment related work expenses actually paid for by the individual would be disregarded. Under the bill, for purposes of determining the monthly SSI payment, the basic

earnings disregards for a disabled individual would be:

1. the first $65 of monthly earnings (current law),
2. "standard work related expense disregard" equal to 20 percent of gross earnings,
3. "impairment related work expenses" paid for by certain severely disabled individuals, plus
4. 50 percent of any remaining monthly earnings (current law).

3. Disability Status Without Payments, and Presumptive Disability (Sec. 4)	Present law allows a "trial work period" of 9 months during which an individual's employment activities and earnings are not used as criteria for determining ability to engage in SGA. (However, any earnings during the trial work period in excess of the earnings disregards will result in a reduction in the individual's SSI payment and, if earnings exceed the income limit, the individual loses SSI eligibility.) If an examination of the facts after the trial work period indicates that the individual has performed SGA, he or she loses disability status. SSI benefits actually cease three months after the end of	A disabled individual would be allowed to retain disability status, without receiving monthly SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. During this 12 month period, if the person experiences a loss of earnings, he or she could begin receiving SSI payments without going through a new eligibility determination procedure. This 12 month period during which the individual would maintain disability status without SSI payments would follow the 9 month "trial work period," plus the 3 months allowed be-

II. Comparison With Present Law—Continued

ITEM	PRESENT LAW	H.R. 3464
	the trial work period during which ability to perform SGA has been demonstrated. Under current law, an individual who has lost eligibility for SSI disability benefits because of earnings in excess of the SGA limit must reapply as a new applicant in order to reestablish eligibility for SSI disability payments.	fore actual termination of payments, provided under present law. A person who loses title II (disability insurance) or SSI disability status due to earnings in excess of the SGA limit would be considered presumptively disabled if he or she reapplies for SSI benefits within four years following the loss of disability status. Such an individual would begin receiving SSI payments immediately upon a determination that he or she meets the income and assets tests and would continue to receive benefits unless and until it was determined that the disability requirements were not met.
4. Research and Demonstration Projects Pertaining to SSI Program (Sec. 5)	Under Section 1115 of the Social Security Act the Secretary may approve state experimental, pilot or demonstration projects which in the judgment of the Secretary are likely to assist in promoting the objectives of the cash assistance titles, Medicaid and Title XX social service program. However, there is no authority for the Secretary to conduct such projects in relation to the Disability Insurance and SSI programs.	The bill authorizes the Secretary of HEW to conduct experimental, pilot or demonstration projects which, in his judgment, would promote the objectives or improve the administration of the SSI program. The Secretary would be authorized, under certain constraints, to waive any of the requirements, conditions, or limitations of Title XVI to the extent necessary to carry out the demonstration projects.

		Such a project could be carried out in coordination with one or more related projects under other titles of the Social Security Act. The bill provides that the Secretary would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income or resources as a result of his or her participation in the project. The Secretary could not require any individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary also would have to assure that any individual could revoke at any time his or her voluntary agreement to participate.
5. Attribution of Parents' Income and Resources to a Disabled or Blind Individual age 18–21 (Sec. 6)	Present law requires that the parents' income and resources be deemed to a blind or disabled child in determining the child's eligibility for SSI and amount of SSI benefits. The term "child" is defined to include individuals under 18 years of age, or under 22 in the case of an individual who is in school or in a training program.	For purposes of the deeming requirement, the term "child" would apply only to individuals under age 18, whether or not the individual is in school or training. This would make uniform the SSI eligibility requirement for blind and disabled individuals age 18 through 21. However, those individuals 18 through 21 receiving benefits at time of enact-

II. Comparison With Present Law—Continued

ITEM	PRESENT LAW	H.R. 3464
		ment would be protected against any loss of benefits which might result from this change.
6. Information to Accompany Secretary's Decisions as to Claimant's Rights (Sec. 7)	Present law does not specify the nature of the notification given to SSI applicants informing them of the decision made on their application.	The Secretary of HEW would be required to provide SSI applicants with a decision notice containing a citation of the pertinent law and regulations, a summary of the evidence, and the reasons for the decision on the application.
7. Continued Payment of Benefits to Individuals under Vocational Rehabilitation Plans (Sec. 8)	A person's eligibility for SSI disability payments ceases when it is determined that he or she no longer meets the disability requirements.	An SSI beneficiary could not be terminated due to a determination of medical recovery while the individual was participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the person may be permanently removed from the disability benefit rolls.

III. Background and Statistical Information on the Supplemental Security Income (SSI) Program

1. General description

The Supplemental Security Income (SSI) program is a federally administered program which provides income assistance for needy, aged, blind, and disabled persons. This program, which replaced the former State-administered programs of aid to the aged, blind, and disabled, became effective on January 1, 1974.

Through June 30, 1979, the SSI program guarantees recipients with no other income a Federal monthly benefit of $189.40 for single individual and $284.10 for a married couple. Beginning July 1, 1979, the benefit amounts are currently projected to increase to $208 for an individual, and $312 for a couple. (The Federal payment level is adjusted automatically each July 1 to reflect changes in the cost-of-living.) Many States have chosen to supplement the Federal benefits and in these States higher SSI benefit levels prevail. (See tables 1 and 2.) States may elect to administer their supplementary payments as a separate program or to contract with the Social Security Administration for Federal administration.

In determining an individual's or couple's monthly SSI payment, income from other sources is subtracted from the overall income support level (the Federal benefit plus State supplement). Some types of income, however, are not counter, or are "disregarded," in making this determination. This includes $20 of monthly income from any source, such as social security benefits. For all aged, blind and disabled applicants and recipients, the first $65 of monthly earnings plus one-half of remaining earnings are disregarded. In addition, for the blind and disabled, the costs of an approved plan to achieve self-support are disregarded. And, for the blind only, expenses reasonably attributable to the earning of income ("work-related expenses") are disregarded. As "countable" income (total income minus disregarded income) increases, the recipient's SSI payment level decreases. Eligibility for SSI ends when countable income equals the Federal plus State supplement maximum payment level.

Eligibility for SSI benefits is restricted to persons who have assets of less than $1,500, or less than $2,250 in the case of a couple. In determining assets, a number of items are not included, such as the individual's home, as well as household goods, personal effects, and an automobile of reasonable value.

At the present time, except in California, Massachusetts, and Wisconsin, SSI beneficiaries may qualify for food stamps if they meet the food stamp income and assets requirements. Tables 1 and 2 show the maximum potential SSI cash and food stamp benefits for individuals and couples in each State for July 1978.

The law creating the SSI program includes a provision giving States the option of extending Medicaid coverage to all SSI recipients or of restricting coverage to a more narrowly defined population. A State may limit coverage by applying any eligibility factor from its January 1972 medical assistance standard for the aged, blind, or disabled that was more restrictive than the eligibilty conditions established for SSI States may limit eligibility by applying a lower income standard, a less generous income disregard, a lower resource standard,

a more restrictive definition of disability, any other limiting factor in the January 1972 standards, or any combination of the above. However, in those states with such restrictions, SSI recipients must be allowed to "spend down" to the SSI benefit standard. That is, if their income exceeds the amount set for Medicaid eligibility, they become eligible for Medicaid after their medical expenses have reduced their income to the State's medicaid eligibility level. At the present time 15 States have elected to restrict coverage: Colorado, Connecitcut, Hawaii, Illinois, Indiana, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Utah, and Virginia.

2. Caseload and expenditures

Data for January 1979 show that there were 4,236,373 persons receiving Federally-administered SSI payments in that month. As shown on table 3, 1,972,145 persons were receiving assistance on the basis of age, 77,439 were blind, and the remainder, 2,186,789, were receiving assistance because of disability. As can be seen from the data in that table, these numbers vary only slightly from the numbers who were receiving SSI payments for these reasons in January of the prior year. The number of persons awarded benefits on the basis of disability has dropped each year since 1975, from 436,490 awarded in 1975 to 348,848 awarded in 1978 (see table 4).

The distribution of the SSI caseload by category of eligibility and by State can be seen on table 5.

Table 6 shows the amount of total payments under the SSI program in the years since the program began. As can be seen from the table, in 1978 the Federal government administered Federal and State payments amounting to $6,509,392 and States administered supplements amounting to $175,857.

3. Disability eligibility criteria

An individual is considered to be disabled under the SSI program if he or she "is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months." A child under the age of 18 considered disabled if he or she suffers from any medically determinable physical or mental impairment of comparable severity. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrated by medically acceptable clinical and laboratory diagnostic techniques.

An individual is considered disabled, and therefore eligible for SSI benefits, only if the physical or mental impairment or impairments are of such severity that he or she is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of "substantial gainful activity." This includes substantial gainful work which exists in the national economy regardless of whether such work exists 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.

Under current law, the Secretary of the Department of Health, Education, and Welfare is required to prescribe the criteria for determining when employment, or earnings derived from such employment, demonstrate an individual's ability to engage in "substantial gainful

activity". Current regulations have established that average earnings of over $280 a month (over an extended period generally not less than 6 months) indicate that an individual is able to engage in SGA. In other words, a disabled SSI recipient who over a period of time earns over $280 a month is considered to be engaged in "substantial gainful activity" and therefore loses SSI eligibility because he or she is no longer considered to be "disabled." Where average monthly earnings do not exceed $280, the work may still be considered SGA if an analysis shows that the work is essentially the same in quality and quantity as that done by unimpaired individuals as their means of livelihood. Where average monthly earnings are less than $180 a month, an assumption may be made that the work is not SGA in the absence of evidence to the contrary.

There is a "trial work period" of 9 months under current law during which time an individual's employment activities and earnings are not used as criteria for determining his or her ability to engage n SGA. The test of SGA is applied for those months beginning after the trial work period. If an examination of the facts after the trial work period shows that the individual has performed SGA, he or she loses disability status and, consequently, eligibility for SSI benefits. Loss of SSI eligibility may also mean loss of eligibility for medicaid benefits and social services under Title XX.

The statutory definition of disability under the SSI program is identical with the definition used in Title II (the disability insurance program) of the Social Security Act. As with the disability insurance program, the Social Security Administration contracts with State disability agencies to determine whether or not an individual meets the criteria for disability. There are, however, a number of significant differences between the SSI program for the disabled and the title II disability insurance program. The major differences include the following:

Cash assistance for the disabled under SSI is provided only to those disabled individuals with income and assets low enough to meet certain Federal and State eligibility standards, and is intended to provide a subsistence level of income for needy disabled, blind, or aged individuals.

Eligibility for, and the amount of SSI benefits are not related to whether the individual has earned social security coverage, or to the level of an individual's previous earnings, as is the case for disability insurance and other social security benefits.

Disabled SSI recipients have a $1 reduction in SSI benefits for every $2 of earnings in excess of $65 a month, until the SGA earnings test (currently $280 per month) disqualifies them for any SSI benefits. In contrast, earnings below the SGA level do not reduce disability insurance payments.

4. Characteristics of persons receiving SSI on the basis of disability

Data for December 1978 show that there were 4,216,925 persons receiving federally administered SSI payments in that month. In addition, there were 48,558 persons receiving state administered state supplementation only.

Table 7 shows the number of persons receiving Federally administered payments, by reason for eligibility in December 1975 and December 1978. In addition, it provides a breakdown of the blind and

disabled by four age groups—under 18 years of age, 18–21, 22–64, and 65 and over.

When a person who is receiving SSI on the basis of blindness or disability becomes age 65, the Social Security Administration does not convert the individual to eligibility on the basis of age. This results in an overstatement of the number of individuals collecting SSI benefits on the basis of disability, both on a national and state-by-state basis, unless the tables are adjusted for this fact. As shown on table 7, 2,172,000 persons were receiving Federally administered payments on the basis of disability. Of those; 319,000 or 14.7 percent were over age 65 and 272,000 or 12.5 percent were under 22 years of age.

Table 7 indicates that the numbers of those receiving SSI benefits classified as "aged" in December 1975 and December 1978 decreased by 339,000 or a 14.7 percent decrease. However, the total number of the aged, blind and disabled persons over age 65 declined by 196,000, a decrease of only 7.8 percent.

Table 7 shows that from December 1975 to December 1978, individuals under age 22 or over 65 made up 91 percent of the increase in the number of persons receiving SSI on the basis of disability. There was only a 1.4 percent increase in the number of persons receiving SSI on the basis of disability who were 22 through 64 years of age. The number of disabled children under age 18 receiving SSI benefits increased by 57,000, or 54.8 percent. The number of persons 65 and over who continued to receive SSI on the basis of disability after they turned age 65 increased by 140,000 or 78.2 percent.

Table 5 shows the number of persons in each State receiving federally administered SSI payments by reason for eligibility in December 1978. Those receiving SSI on the basis of disability are separated into the age categories of under age 18, 18–21, 22–64 and 65 and over.

Average payments.—Data for December 1978 show that the average monthly amount paid to those receiving SSI benefits on the basis of disability was $155, compared to $100 for the aged and $164 for the blind (see table 8).

Earned income.—In December 1978, 3.8 percent of those receiving SSI benefits on the basis of disability had earned income, with an average monthly amount of $95. Three years earlier, in December 1975, 2.8 percent of those receiving SSI benefits on the basis of disability had earnings, which averaged $83 (see table 9).

Unearned income.—In December 1978, 35 percent of those receiving SSI payments on the basis of disability and blindness were also receiving Title II social security benefits. However, for those disabled and blind under age 65 only 30 percent were receiving Title II social security benefits. The average monthly amount of the social security benefit was $156. About 10 percent of those receiving SSI benefits on the basis of disability had unearned income other than social security benefits. The average amount of this other income was $76 a month (see tables 9 and 10).

Sex and race.—In December 1978, 60 percent of those receiving SSI benefits on the basis of disability were women and 65 percent were white (see table 11).

Type of impairment.—According to Social Security Administration data for 1975, 31 percent of adults who were awarded federally administered disability payments in that year qualified on the basis of a mental disorder, including mental retardation (13 percent). Other

types of impairments included diseases of the circulatory system (21 percent); diseases of the musculoskeletal system and connective tissue (13 percent); diseases of the nervous system and sense organs (10 percent); neoplasms (5 percent); endocrine, nutritional and metabolic diseases (5 percent); diseases of the respiratory system (5 percent); accidents, poisonings and violence (4 percent); and others (7 percent) (see table 12).

TABLE 1.—MAXIMUM POTENTIAL SSI PLUS FOOD STAMP BENEFITS, JULY 1978

	Per aged individual living independently			
	Maximum SSI (monthly)	Bonus food stamps [1] (monthly)	Total potential benefits	
			Monthly	Yearly
Alabama	[2] $189.40	$40.00	$229.40	$2,752.80
Alaska	[3] 377.00	10.00	387.00	4,644.00
Arizona	189.40	40.00	229.40	2,752.80
Arkansas	189.40	40.00	229.40	2,752.80
California (September/1978)	[4] 307.60	[9] 10.00	317.60	3,811.20
Colorado	[5] 229.00	28.00	257.40	3,088.80
Connecticut	295.92	10.00	305.92	3,671.04
Delaware	189.40	40.00	229.40	2,752.80
District of Columbia	189.40	40.00	229.40	2,752.80
Florida	189.40	40.00	229.40	2,752.80
Georgia	189.40	40.00	229.40	2,752.80
Hawaii	204.60	72.00	276.60	3,319.20
Idaho	263.00	18.00	281.00	3,372.00
Illinois [6]	196.60	38.00	234.60	2,815.20
Indiana	189.40	40.00	229.40	2,752.80
Iowa	[4] 189.40	40.00	229.40	2,752.80
Kansas	189.40	40.00	229.40	2,752.80
Kentucky	189.40	40.00	229.40	2,752.80
Louisiana	189.40	40.00	229.40	2,752.80
Maine	199.40	37.00	236.40	2,836.80
Maryland	189.40	40.00	229.40	2,752.80
Massachusetts	[7] 315.80	([8])	315.80	3,789.60
Michigan	216.65	32.00	248.65	2,983.80
Minnesota [6]	[3] 222.60	30.00	252.60	3,031.20
Mississippi	189.40	40.00	229.40	2,752.80
Missouri	189.40	40.00	229.40	2,752.80
Montana	189.40	40.00	229.40	2,752.80
Nebraska	[3] 278.00	13.00	291.00	3,492.00
Nevada	[7] 229.45	28.00	257.45	3,089.40
New Hampshire	229.00	28.00	257.00	3,084.00
New Jersey	207.00	34.00	241.00	2,892.00
New Mexico	189.40	40.00	229.40	2,752.80
New York	250.25	21.00	271.25	3,255.00
North Carolina	189.40	40.00	229.40	2,752.80
North Dakota	189.40	40.00	229.40	2,752.80
Ohio	189.40	40.00	229.40	2,752.80
Oklahoma	231.40	27.00	258.40	3,100.80
Oregon	[4] 201.40	36.00	237.40	2,848.80
Pennsylvania	221.80	30.00	251.80	3,021.60
Rhode Island	222.80	30.00	252.80	3,033.60
South Carolina	189.40	40.00	229.40	2,752.80
South Dakota	204.40	35.00	239.40	2,872.80
Tennessee	189.40	40.00	229.40	2,752.80
Texas	189.40	40.00	229.40	2,752.80
Utah	199.40	37.00	236.40	2,836.80
Vermont	226.00	29.00	255.00	3,060.00
Virginia	189.40	40.00	229.40	2,752.80
Washington	[3] 230.25	27.00	257.25	3,087.00
West Virginia	189.40	40.00	229.40	2,752.80
Wisconsin	275.60	([8])	275.60	3,307.20
Wyoming	209.40	34.00	243.40	2,920.80

[1] Calculated under terms of Food Stamp Act of 1977. Assumes use of maximum deductions (standard deduction plus excess shelter/dependent care deduction): $140 monthly in the 48 States and District of Columbia, $250 in Alaska, and $210 in Hawaii). Food stamp benefits would be smaller for recipients without the maximum deduction.

[2] Estimate. Higher if person receives nursing care at home. Less if blind and non-aged.

[3] Maximum payable may be less depending on actual shelter costs or area of State.

[4] More if blind, regardless of age.

[5] Less if blind or disabled and not aged.

[6] Estimate. Actual data not available.

[7] More if blind, regardless of age; but less if disabled and not aged.

[8] Cash-out State. If State had not cashed-out food stamps, bonuses would be as follows: Massachusetts and Wisconsin $10 for individuals; zero for couples.

[9] Under provisions of Public Law 95-458, this $10 food stamp benefit will be paid as a federally funded cash supplement in fiscal year 1979 only, beginning about February 1979.

Source: Congressional Research Service.

TABLE 2.—MAXIMUM POTENTIAL SSI PLUS FOOD STAMP BENEFITS, JULY 1978

	Per aged couple living independently			
	Maximum SSI (monthly)	Bonus food stamps [1] (monthly)	Total potential benefits	
			Monthly	Yearly
Alabama	[2] $284.10	$57.00	$341.00	$4,093.20
Alaska	[3] 553.00	48.00	601.00	7,212.00
Arizona	284.10	57.00	341.00	4,093.20
Arkansas	284.10	57.00	341.00	4,093.20
California (September 1978)	574.40	0	574.40	6,892.80
Colorado	[5] 458.00	10.00	468.00	5,616.00
Connecticut	497.14	10.00	507.14	6,085.68
Delaware	284.10	57.00	341.00	4,093.20
District of Columbia	284.10	57.00	341.00	4,093.20
Florida	284.10	57.00	341.00	4,093.20
Georgia	284.10	57.00	341.00	4,093.20
Hawaii	308.30	103.00	411.30	4,935.60
Idaho	364.00	33.00	397.00	4,764.00
Illinois [6]	284.10	57.00	341.00	4,093.20
Indiana	284.10	57.00	341.00	4,093.20
Iowa	[4] 284.10	57.00	341.00	4,093.20
Kansas	284.10	57.00	341.00	4,093.20
Kentucky	284.10	57.00	341.00	4,093.20
Louisiana	284.10	57.00	341.00	4,093.20
Maine	299.10	53.00	352.10	4,225.20
Maryland	284.10	57.00	341.00	4,093.20
Massachusetts	[7] 480.84	([8])	480.84	5,770.08
Michigan	324.98	45.00	369.98	4,439.76
Minnesota [6]	[3] 328.40	44.00	372.40	4,468.80
Mississippi	284.10	57.00	341.00	4,093.20
Missouri	284.10	57.00	341.00	4,093.20
Montana	284.10	57.00	341.00	4,093.20
Nebraska	[3] 378.00	29.00	407.00	4,884.00
Nevada	[7] 361.14	34.00	395.14	4,741.68
New Hampshire	322.00	46.00	368.00	4,416.00
New Jersey	293.00	55.00	348.00	4,176.00
New Mexico	284.10	57.00	341.00	4,093.20
New York	360.04	34.00	394.04	4,728.48
North Carolina	284.10	57.00	341.00	4,093.20
North Dakota	284.10	57.00	341.00	4,093.20
Ohio	284.10	57.00	341.00	4,093.20
Oklahoma	363.10	34.00	397.10	4,765.20
Oregon	[4] 294.10	54.00	348.10	4,177.20
Pennsylvania	332.80	43.00	375.80	4,509.60
Rhode Island	347.28	38.00	385.28	4,623.36
South Carolina	284.10	57.00	341.00	4,093.20
South Dakota	299.10	53.00	352.10	4,225.20
Tennessee	284.10	57.00	341.00	4,093.20
Texas	284.10	57.00	341.00	4,093.20
Utah	294.10	54.00	348.00	4,177.20
Vermont	[3] 352.00	37.00	389.00	4,668.00
Virginia	284.10	57.00	341.00	4,093.20
Washington	[3] 328.50	44.00	372.50	4,470.00
West Virginia	284.10	57.00	341.00	4,093.20
Wisconsin	423.30	([9])	423.30	5,079.60
Wyoming	324.10	45.00	369.10	4,429.20

[1] Calculated under terms of Food Stamp Act of 1977. Assumes use of maximum deductions (standrad deduction plus excess shelter/dependent care deduction): $140 monthly in the 48 States and District of Columbia, $250 in Alaska, and $210 in Hawaii). Food stamp benefits would be smaller for recipients without the maximum deduction.
[2] Estimate. Higher if person receives nursing care at home. Less if blind and nonaged.
[3] Maximum payable may be less depending on actual shelter costs or area of State.
[4] More if blind, regardless of age.
[5] Less if blind or disabled and not aged.
[6] Estimate. Actual data not available.
[7] More if blind, regardless of age; but less if disabled and not aged.
[8] Cash-out State. If State had not cashed-out food stamps, bonuses would be as follows: Massachusetts and Wisconsin, $10 for individuals; zero for couples.

Source: Congressional Research Service.

TABLE 3.—NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS, BY CATEGORY, JANUARY 1978 AND JANUARY 1979

	Total	Aged	Blind	Disabled
January 1978	4,249,970	2,052,175	77,398	2,120,397
January 1979	4,236,373	1,972,145	77,439	2,186,789

TABLE 4.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS INITIALLY AWARDED FEDERALLY ADMINISTERED PAYMENTS, BY REASON FOR ELIGIBILITY, 1974–78

Period	Total	Aged	Blind	Disabled
1974[1]	890,768	498,555	5,206	387,007
1975	702,147	259,823	5,834	436,490
1976	542,355	171,798	4,735	365,822
1977	557,570	189,750	5,753	362,067
1978	532,447	177,224	6,375	348,848
1977:				
January	45,783	14,449	412	30,922
February	43,755	14,724	405	28,626
March	48,518	15,895	455	32,168
April	58,974	21,695	547	36,732
May	36,268	12,532	321	23,415
June	49,421	14,445	462	33,514
July	51,438	18,801	555	32,082
August	46,796	15,986	583	30,227
September	45,120	15,532	459	29,129
October	49,646	17,881	533	31,232
November	42,251	14,474	556	27,221
December	39,600	12,336	465	26,799
1978:				
January	50,537	17,234	562	32,741
February	40,418	13,487	461	26,470
March	52,110	16,991	599	34,520
April	42,765	14,904	449	27,412
May	45,049	15,667	560	28,822
June	42,698	13,060	482	29,156
July	43,815	15,204	521	28,090
August	52,912	17,334	649	34,929
September	39,150	12,913	534	25,703
October	40,674	13,127	494	26,963
November	45,697	14,842	590	30,265
December	36,622	12,371	474	23,777

[1] Reflects data for May to December.

Source: Social Security Administration.

TABLE 5.—SSI FOR THE AGED, BLIND AND DISABLED: NUMBER OF PERSONS BY REASON FOR ELIGIBILITY AND STATE, DECEMBER 1978

	All persons	Aged	Blind	Disabled [1]				
				Total	Under 18	18 to 21	22 to 64	65 and over
Total	4,216,925	1,967,900	77,135	2,171,890	161,067	110,981	1,580,432	319,206
Alabama	140,018	85,052	1,922	53,044	4,538	2,471	36,997	9,03
Alaska	3,152	1,261	68	1,823	148	114	1,282	279
Arizona	29,034	12,411	528	16,095	1,158	844	11,559	2,534
Arkansas	82,539	48,161	1,571	32,807	2,924	1,361	22,422	6,100
California	696,419	318,895	17,243	360,281	17,197	14,395	270,996	57,693
Colorado	32,940	15,506	359	17,075	1,258	1,136	13,002	1,679
Connecticut	23,222	8,040	305	14,877	990	929	11,249	1,709
Delaware	7,191	2,790	190	4,211	431	367	2,983	430
District of Columbia	14,813	4,315	193	10,305	335	339	7,748	1,883
Florida	167,921	86,916	2,578	78,427	5,932	3,718	53,673	15,104
Georgia	158,727	78,335	2,940	77,452	5,974	3,453	54,827	13,198
Hawaii	10,104	5,184	142	4,778	295	291	3,631	561
Idaho	7,677	2,997	94	4,586	442	276	3,214	654
Illinois	125,802	38,897	1,646	85,259	3,965	3,923	62,328	15,043
Indiana	41,393	16,934	1,045	23,414	1,552	1,846	17,060	2,956
Iowa	26,582	12,455	1,070	13,057	1,305	1,222	9,282	1,248
Kansas	21,656	9,340	321	11,995	975	882	8,366	1,772
Kentucky	94,002	46,301	2,014	45,687	3,713	2,378	33,155	6,441
Louisiana	143,604	74,510	2,159	66,935	8,819	3,782	45,220	9,114
Maine	22,738	10,982	283	11,473	749	583	8,633	1,508
Maryland	48,407	17,094	562	30,751	1,764	1,727	23,225	4,035
Massachusetts	131,566	74,042	4,894	52,630	3,481	2,733	41,951	4,465
Michigan	117,583	42,634	1,715	73,234	3,433	4,666	55,269	9,866
Minnesota	34,498	14,691	649	19,158	1,356	1,463	12,612	3,727
Mississippi	115,760	67,424	1,870	46,466	4,673	2,081	30,741	8,971
Missouri	89,345	47,376	1,523	40,446	2,510	2,379	29,426	6,131
Montana	7,356	2,707	131	4,518	345	318	3,253	602
Nebraska	14,189	6,338	248	7,603	614	512	5,523	954
Nevada	6,279	3,471	384	2,424	255	188	1,923	58
New Hampshire	5,460	2,374	131	2,955	288	240	2,098	329

New Jersey	83,312	33,353	991	48,968	4,367	3,495	35,227	5,879
New Mexico	25,670	11,133	437	14,100	973	681	9,496	2,950
New York	376,898	148,051	3,934	224,913	18,336	10,250	166,695	29,632
North Carolina	143,269	68,486	3,339	71,444	4,677	2,772	51,943	12,052
North Dakota	6,923	3,756	69	3,098	208	178	2,154	558
Ohio	123,875	40,894	2,305	80,676	5,704	5,237	60,725	9,010
Oklahoma	73,600	39,980	1,083	32,537	2,248	1,419	22,851	6,019
Oregon	23,044	8,215	540	14,289	1,191	902	10,421	1,775
Pennsylvania	169,478	63,856	3,653	101,969	9,400	6,066	75,035	11,468
Rhode Island	15,492	6,383	177	8,932	851	463	5,797	1,821
South Carolina	84,099	41,306	1,867	40,926	3,349	1,644	29,351	6,582
South Dakota	8,240	4,184	201	3,936	407	263	2,719	547
Tennessee	133,408	66,931	1,880	64,597	4,905	2,883	46,559	10,250
Texas	270,242	161,975	4,107	104,160	12,639	5,724	71,201	14,596
Utah	8,100	2,690	159	5,251	515	388	3,703	645
Vermont	9,043	3,967	124	4,952	352	260	3,644	696
Virginia	79,701	37,606	1,429	40,666	2,771	2,212	30,538	5,145
Washington	48,654	17,165	522	30,967	1,906	1,774	23,613	3,674
West Virginia	42,760	16,114	629	26,017	1,753	1,190	19,582	3,492
Wisconsin	68,491	33,107	944	34,440	3,040	2,502	24,727	4,171
Wyoming	2,040	933	25	1,082	56	61	803	162
Unknown	32	13	----	19	----	----	----	----
Other areas: Northern Mariana Islands	577	369	23	185	----	----	----	----

[1] The distribution by age does not include Northern Mariana Islands, 185 and unknown States, 19.

Source: Social Security Administration.

TABLE 6.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED: AMOUNT OF TOTAL PAYMENTS, FEDERAL SSI PAYMENTS, AND STATE SUPPLEMENTARY PAYMENTS, 1974-78

[In thousands]

Period [1]	Total	Federal SSI	State supplementation		
			Total	Federally administered	State administered
1974	$5,245,719	$3,833,161	$1,412,558	$1,263,652	$148,906
1975	5,878,224	4,313,538	1,564,686	1,402,534	162,152
1976	6,065,842	4,512,061	1,553,871	1,388,154	165,627
1977	6,374,289	4,744,711	1,629,578	1,459,368	170,210
1978	6,685,249	4,975,735	1,709,514	1,533,657	[2] 175,857
1978:					
January	538,107	399,753	138,354	124,198	14,156
February	540,575	402,070	138,505	124,465	14,040
March	552,079	410,866	141,213	127,451	13,762
April	542,746	403,871	138,875	124,719	14,156
May	543,234	403,449	139,875	125,334	14,451
June	542,137	402,278	139,859	125,440	14,419
July	574,749	425,032	149,717	134,899	14,818
August	585,524	432,897	152,627	137,510	15,117
September	565,205	423,444	141,761	126,572	15,189
October [3]	567,268	424,083	143,185	127,936	15,249
November	571,758	427,538	144,220	129,020	[2] 15,200
December	561,867	420,454	141,413	126,113	[2] 15,300

[1] Monthly data exclude payments for optional supplementation in North Dakota.
[2] Partly estimated.
[3] Revised.

Source: Social Security Administration.

TABLE 7.—SSI: NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS IN DECEMBER 1975 AND 1978, BY REASON FOR ELIGIBILITY AND AGE; NUMBER AND PERCENTAGE CHANGE DURING 3-YR PERIOD

[In thousands]

Reasons for, eligibility and age	December 1975	December 1978	Change between 1975 and 1978	
			Number	Percent
Total	4,314	4,217	−97	−2.2
Reason for eligibility:				
Aged	2,307	1,968	−339	−14.7
Blind	74	77	3	4.1
Under 18	3	5	2	66.7
18 to 21	4	3	−1	−25.0
22 to 54	46	43	−3	−6.5
55 and over	22	25	3	13.6
Disabled	1,933	2,172	239	12.4
Under 18	104	161	57	54.8
18 to 21	90	111	21	23.3
22 to 64	1,559	1,581	22	1.4
65 and over	179	319	140	78.2
Age:				
Under 18	107	166	59	55.1
18 to 21	93	115	22	23.7
22 to 64	1,605	1,624	19	1.2
65 and over	2,508	2,312	−196	−7.8

TABLE 8.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED: NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED PAYMENTS AND AVERAGE MONTHLY AMOUNT, BY REASON FOR ELIGIBILITY AND TYPE OF PAYMENTS; DECEMBER 1978

Type of payment	Total	Aged	Blind	Disabled
Total	4,216,925	1,967,900	[1] 77,135	[2] 2,171,890
Number of persons:				
Federal SSI payments [3]	3,754,663	1,685,651	68,192	2,000,820
Federal SSI payments only	2,535,522	1,228,872	42,113	1,264,537
Federal SSI and State supplementation	1,219,141	456,779	26,079	736,283
State supplementation [3]	1,681,403	739,028	35,022	907,353
State supplementation only	462,262	282,249	8,943	171,070
Amount of payments (in thousands):				
Federal SSI payments	$420,454	$144,442	$9,031	$266,981
State supplementation	126,113	53,187	3,651	69,275
Total	546,567	197,630	12,681	336,256
Average monthly amount:				
Federal SSI payments	111.98	85.69	132.43	133.44
State supplementation	75.00	71.97	104.24	76.35
Total	129.61	100.43	164.40	154.82

[1] Includes approximately 25,000 persons aged 65 and over.
[2] Includes approximately 311,000 persons aged 65 and over.
[3] Incluses persons with Federal SSI payments only, Federal SSI and State supplementation, and federally administered State supplementation only, data partly estimated.

Source: Social Security Administration.

TABLE 9.—NUMBER OF PERSONS RECEIVING FEDERALLY ADMINISTERED PAYMENTS AND PERCENT IN CONCURRENT RECEIPT OF INCOME AND AVERAGE MONTHLY AMOUNT, BY REASON FOR ELIGIBILITY AND TYPE OF INCOME, DECEMBER 1978

Type of income	Total	Reason for eligibility		
		Aged	Blind	Disabled
Total number	4,216,925	1,967,900	77,135	2,171,890
Number:				
Social security benefits	2,179,054	1,383,024	29,153	766,877
Other unearned income	484,277	255,152	8,479	220,646
Earned income	129,625	42,020	5,428	82,177
Percent with income:				
Social security benefits	51.7	70.3	37.8	35.3
Other unearned income	11.5	13.0	11.0	10.2
Earned income	3.1	2.1	7.0	3.8
Average monthly amount:				
Social security benefits	$156.50	$156.89	$163.86	$155.51
Other unearned income	66.93	58.47	73.96	76.45
Earned income	99.32	79.49	324.33	94.60

Source: Social Security Administration.

TABLE 10.—OASDI BENEFITS IN CURRENT-PAYMENT STATUS: NUMBER AND PERCENT OF OASDI BENEFICIARIES IN CONCURRENT RECEIPT OF FEDERALLY ADMINISTERED SSI PAYMENTS, BY TYPE OF BENEFICIARY, DECEMBER 1978

Type of beneficiary	All OASDI beneficiaries	OASDI beneficiaries with SSI					
		Number			Percent of all OASDI beneficiaries		
		Total	Aged	Blind and disabled	Total	Aged	Blind and disabled
Total	34,453,027	2,161,212	1,369,519	791,693	6.3	4.0	2.3
Retirement [1]	22,006,468	1,320,683	1,056,560	264,123	6.0	4.8	1.2
Workers 65 and over	16,496,550	1,090,612	944,135	146,477	6.6	5.7	.9
Men	9,018,100	475,724	405,579	70,145	5.3	4.5	.8
Women	7,478,450	614,888	538,556	76,332	8.2	7.2	1.0
Wives and husbands 65 and over	2,349,978	133,002	112,263	20,739	5.7	4.8	.9
Disabled adult children	134,726	58,978	162	58,816	43.8	.2	43.7
Workers 62 to 64	1,861,435	21,464	.....	21,464	1.2	.....	1.2
Men	910,363	10,602	.....	10,602	1.2	.....	1.2
Women	951,072	10,862	.....	10,862	1.1	.....	1.1
Wives and husbands 62 to 64	430,448	9,811	.....	9,811	2.3	.....	2.3
Children under 18 and students 18 to 21	533,798	2,572	.....	2,572	.5	.....	.5
Wives with children	199,533	4,244	.....	4,244	2.1	.....	2.1
Disability	4,868,576	337,506	2,043	335,463	6.9	[2]	6.9
Workers under 65	2,879,828	300,683	.....	300,683	10.4	.....	10.4
Men	1,952,227	150,709	.....	150,709	7.7	.....	7.7
Women	927,601	149,794	.....	149,974	16.2	.....	16.2
Wives and husbands 65 and over	36,963	3,354	2,043	1,311	9.1	5.5	3.5
Disabled adult children	31,585	17,217	.....	17,217	54.5	.....	54.5
Wives and husbands 62 to 64	41,449	1,294	.....	1,294	3.1	.....	3.1
Children under 18 and students 18 to 21	1,465,628	8,904	.....	8,904	.6	.....	.6
Wives with children	413,123	6,054	.....	6,054	1.5	.....	1.5
Survivors	7,577,983	503,023	310,916	192,107	6.6	4.1	2.5
Widows and widowers 65 and over	3,539,806	351,633	307,294	44,339	9.9	8.7	1.3
Disabled widows and widowers	128,881	38,013	.....	38,013	29.5	.....	29.5
Disabled adult children	253,586	75,551	1,573	73,978	29.8	.6	29.2
Parents 65 and over	16,848	2,130	2,049	81	12.6	12.2	.5
Parents 62 to 64	329	27	.....	27	8.2	.....	8.2
Nondisabled widows and widowers 60 to 64	543,062	21,136	.....	21,136	3.9	.....	3.9
Children under 18 and students 18 to 21	2,519,118	7,062	.....	7,062	.3	.....	.3
Widowed mothers and fathers	576,353	7,471	.....	7,471	1.3	.....	1.3

[1] Excludes 133,744 special age beneficiaries.
[2] Less than 0.05 percent.

Source: Social Security Administration.

TABLE 11.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED: NUMBER AND PERCENTAGE DISTRIBUTION OF PERSONS RECEIVING FEDERALLY ADMINISTERED PAYMENTS, BY REASON FOR ELIGIBILITY, SEX, AND RACE, DECEMBER 1978

Sex and race	Total	Aged	Blind	Disabled
Total number	4,216,925	1,967,900	77,135	2,171,890
Total percent	100.0	100.0	100.0	100.0
Sex:				
Men	34.5	28.0	43.4	40.1
Women	65.4	72.0	56.4	59.7
Not reported	0.1	0.1	0.2	0.2
Race:				
White	64.8	65.1	63.6	64.6
Black	27.3	24.7	28.7	29.7
Other	3.1	3.4	3.2	2.9
Not reported	4.7	6.8	4.4	2.8

Source: Social Security Administration.

TABLE 12.—SUPPLEMENTAL SECURITY INCOME: NUMBER AND PERCENTAGE DISTRIBUTION OF BLIND AND DISABLED ADULTS AWARDED FEDERALLY ADMINISTERED PAYMENTS, BY BASIS FOR ADJUDICATION AND DIAGNOSTIC GROUP, 1975

Diagnostic group	Adults				
	Total	Impairment meets level of severity	Impairment equals level of severity	Medical and vocational consider-ation	Medical, vocational consideration (older and unskilled)
Total number [1]	356,892	105,092	158,019	92,545	1,236
Total percent	(100.0)	(100.0)	(100.0)	(100.0)	(100.0)
Infective and parasitic diseases	1.6	1.8	1.7	1.2	.1
Neoplasms	5.4	7.8	6.0	1.8	1.0
Endocrine, nutritional, and metabolic diseases	5.0	3.2	4.7	7.7	2.5
Mental disorders	30.7	41.5	35.4	10.6	2.0
Mental retardation	13.1	25.5	11.1	2.6	----
Diseases of the nervous system and sense organs	10.0	16.6	9.3	4.3	.4
Diseases of the eye	2.9	7.9	.8	.9	.1
Diseases of the circulatory system	20.7	13.0	20.6	29.0	50.8
Diseases of the respiratory system	4.7	4.7	3.6	6.7	5.1
Diseases of the digestive system	2.1	2.0	2.2	2.7	6.2
Diseases of the genitourinary system	1.0	1.7	.7	.6	----
Diseases of the musculoskeletal system and connective tissue	12.7	2.0	9.4	30.2	28.5
Congenital anomalies	1.3	1.6	1.4	.8	----
Accidents, poisonings, and violence (nature of injury)	3.9	3.8	3.9	4.2	3.3
Other	.8	.3	1.1	.8	----

[1] Excludes persons with prior entitlement to benefits under the social security program.

Source: Social Security Administration.

IV. Section-by-Section Explanation and Justification

SECTION 1. SHORT TITLE

Section 1 provides that the Act may be cited as the "Supplemental Security Disability Amendments of 1979."

SECTION 2. EARNINGS LEVEL FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

Section 2 would amend section 1614(a)(3)(D) of the Social Security Act to require the Secretary of HEW to increase the "substantial gainful activity" (SGA) earnings limit, currently $280 a month, to the level at which an individual's monthly countable earnings equal the basic Federal Supplemental Security Income (SSI) benefit for that month. Based on the currently projected July 1, 1979 monthly Federal SSI benefit of $208, under the bill the SGA earnings limit would be $481 a month for a disabled individual with no excludable "impairment related work expenses." The amendments pertaining to the SGA earnings limit would not take effect until July 1, 1980. Therefore, any cost-of-living increase in the Federal SSI benefit effective on or after July 1, 1980 would automatically increase the SGA limit above $481.

In determining countable earnings for purposes of the SGA earnings limit, an individual's gross monthly earnings would be reduced by the first $65 of such earnings and 50 percent of remaining earnings.

Individuals whose disabilities are sufficiently severe to result in a functional limitation necessitating special assistance in order for them to work would be allowed an addtional "impairment related work expense disregard." These severely disabled individuals would be allowed to reduce their countable earnings by an amount equal to the cost of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which, because of their disability, they must have in order to be able to work, regardless of who pays for the necessary items or services and whether or not such assistance is also needed to enable the person to carry out normal daily functions. This "impairment related work expense disregard" would be applied to an individual's earnings before the "50 percent of remaining earnings disregard" is applied.

This section changes the current SGA test only with regard to title XVI, the SSI program It does not affect the definition of SGA under title II, the disability insurance program.

Under current Federal SSI law and regulations, needy aged, blind and disabled individuals with income and resources below specified levels may qualify for a maximum Federal SSI cash benefit currently projected to be $208 a month as of July 1, 1979. In most States, individuals who qualify for SSI benefits also qualify for Medicaid and social services under titles XVI and XX. For employed SSI beneficiaries, cash benefits are gradually reduced as the individual's earnings, subject to certain disregards, increase.

Under present law, to qualify for SSI benefits on the basis of disability, an individual must be "unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months." The Secretary of HEW is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in SGA is $280 a month.

The effect of the SGA test is to place an earnings limitation on disabled recipients which is lower than the point at which Federal SSI benefits would normally phase-out due to earnings. Moreover, the limitation results in a benefits "cliff" for disabled recipients. Rather than gradually phasing out of the program as do the aged and the blind, the disabled individual loses all benefits when earnings exceed $280 a month. Under current SSI provisions, (as of July 1, 1979) a disabled individual who earns more than $280 a month faces the loss of up to $1,200 in yearly Federal SSI payments plus the loss of any State SSI supplementation payments. In addition, he or she may lose social service assistance and Medicaid.

Faced with this abrupt loss of income assistance, health care and social services, disabled individuals with employment potential are discouraged from seeking and accepting employment. Even those persons with a strong desire to work dare not risk the complete loss of medical care, income assistance and needed social services.

The committee believes that current Federal programs for the disabled work at cross-purposes. The 95th Congress improved the Federal vocational rehabilitation program in order to increase employment opportunities for the handicapped. Yet, the structure of the SSI program continues to present major barriers for the disabled in pursuing these and similar employment opportunities.

During he hearings conducted on these provisions, witnesses cited several examples of the severe work disincentives in the present SSI program:

> A severely disabled young woman from Los Angeles committed suicide in February, 1978 when earnings from her part-time employment exceeded the SGA limit, and therefore disqualified her for necessary SSI and Medicaid assistance.
>
> A business college graduate with muscular dystrophy from Omaha, Nebraska, although trained, capable and eager to work, could not "risk" employment because of the potential loss of needed SSI and other assistance.
>
> A paraplegic in San Francisco was forced to turn down a CETA job which could have started him on the roal to total independence because he would lose vital services before his earnings were suffiicent to pay for the services himself.
>
> A family in Michigan was outraged when their severely mentally retarded son lost all SSI, Medicaid and social services benefits because he got a part-time job as a dishwasher.

The bill would adjust the test of an individual's ability to engage in substantial gainful activity to coincide more closely with the normal phase-out point for Federal SSI benefits. The effect would be to reduce the work disincentive for the disabled by more closely aligning the test for disability under SSI with the program's Federal income test.

In determining whether certain severely idsabled individuals have met the SGA earnings limit, the bill would allow for the disregard of certain impairment related work expenses which severely handicapped persons must bear. These would include the costs of attendant care and other impairment-related expenses such as wheelchairs, braces, and other equipment and prostheses, as well as drugs and medical services where such drugs or services are necessary to control the disabling condition and permit the individual to work. Such drugs and medicine would include for example, those necessary to control an epileptic condition.

For the purpose of determining SGA, these impairment-related work expenses would be disregarded regardless of who pays for the items or services. This provision is intended to prevent a "revolving door" for SSI beneficiaries. For example, if the costs of attendant care paid for by title XX were not disregarded in determining SGA, an individual could lose SSI eligibility because of earnings above the SGA limit. As a result of losing SSI eligibility, the person could become ineligible for title XX attendant care services which he or she needs in order to work. If the person wished to continue working, he or she would have to pay the cost of any necessary attendant care out of earnings. If out-of-pocket impairment related work expenses were disregarded for purposes of re-determining SSI eligibility, the per-

son could then requalify for SSI benefits. To prevent this "revolving door" result, the committee deceided, in the determination of SGA, to disregard the cost of attendant care and other impairment-related work expenses whether or not paid for by the disabled individual.

The physical or mental impairments of disabled individuals who can work frequently limit them to part-time employment or to employment with low hourly wages. For such individuals, earnings above $280 do not signify a lessening of their disability, but simply a greater effort on their part to increase their work despite severe handicaps and the additional time, effort, and preparations necessary for them to work as well as carry out normal daily personal functions and responsibilities. These individuals have a great desire to become as independent and self-supporting as possible, without having to face the risk of losing all the critically needed income support and medical care provided through the SSI and Medicaid programs.

This potential for a substantial reduction in total monthly income and, in most cases, loss of Medicaid coverage presents an enormous disincentive for disabled SSI recipients to seek employment or to expand current work efforts. The provisions in section 2 would encourage these individuals in their efforts to become as self-sufficient as possible by increasing the amount of earnings a disabled recipient or applicant may have and still be eligible for some level of SSI benefits and, in most cases, Medicaid and needed social services.

The Social Security Administration (SSA) estimates that nearly 4,000 disabled persons, who would have had their benefits terminated as a result of engaging in SGA, would continue to be eligible as a result of the increase in the SGA earnings limit provided in this bill. Further, SSA has estimated that, in the first year after enactment of the bill, 15,000 persons will qualify for SSI as a result of the change in SGA; and, by 1985, an additional 35,000 will qualify for SSI disability payments. The Committee requests that SSA develop and implement procedures which will allow it to collect and make available to the committee accurate information and statistical data on the number of disabled persons whose benefits are terminated due to performing SGA, the number of persons who begin receiving SSI as a result of the changes in the SGA test contained in this bill, and the reduction in SSI and Medicaid costs due to the increased work efforts of SSI receipts because of the work incentives provided in this bill.

SECTION 3. EXCLUSION OF WORK RELATED EXPENSES, AND CERTAIN COSTS OF ATTENDANT CARE, AND OTHER IMPAIRMENT-RELATED EXPENSES FOR THE DISABLED

Section 3 would provide for the exclusion from earned income of a standard work related expenses disregard of 20% of gross earnings in determining the monthly SSI benefit for disabled applicants and recipients. It would also provide for the exclusion from earned income of the cost to the individual of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) for a disabled applicant or recipient, if the individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order to work, whether or not the assistance is also needed to carry

out the person's normal daily functions. Such costs would be subtracted from earnings after the $65 a month disregard but before the "50 percent of the remaining earnings disregard" is applied.

The amendment made by this section would apply with respect to expenses incurred on or after July 1, 1980.

Under present law, eligibility for and the amount of SSI benefits for the aged, blind and disabled are determined by disregarding the first $65 of monthly earnings plus one-half of the remaining earnings. In addition, blind and disabled applicants and recipients may disregard the cost of an approved plan for self-support. Blind SSI recipients may also disregard work related expenses (i.e., those expenses reasonably attributable to the earning of income).

The standard work related expenses disregard of 20 percent of gross earnings and the impairment-related work expense disregard provided in this bill, together, would provide a work related expenses disregard for the disabled similar to that now provided by law and regulation for the blind.

The committee believes that every feasible effort should be made to encourage disabled SSI recipients to work. There is no incentive to work, however, if the cost of working exceeds the earnings from the job.

The disabled incur normal work related expenses such as transportation, union dues, taxes, uniforms and other items. The bill provides a standard disregard of 20 percent of gross income to cover such expenses.

In addition, a severely disabled person may have other work expenses related to his impairment such as a specially adapted telephone or typewriter, a wheelchair, urinary appliances, braces or attendant care. These impairment-related work expenses, whether or not they were also necessary to carry out his or her normal daily functions, would be disregarded when determining SSI benefits.

It is the intent of these provisions to increase work incentives by allowing a disabled person to disregard from earnings, in the determination of his or her monthly SSI payment, normal work expenses as well as special work expenses related to his impairment.

SECTION 4. EXTENSION OF TRIAL WORK PERIOD; PRESUMPTIVE DISABILITY

Section 4 amends section 1614 (a)(3) of the Social Security Act by adding a new subsection (F) to extend for 15 months, beyond the present 9 month trial work period, an individual's status as disabled even though his or her benefits may have terminated if that termination occurred solely as a result of the individual's having engaged in substantial gainful activity. The effect of this amendment is to allow an individual to return to benefit status without going through the process of re-establishing the fact that he or she is disabled. During this period, a person could immediately requalify for SSI payments if necessary because of a loss of earnings. The period during which the individual would maintain disability status without SSI payments would follow the 9 month "trial work period," plust the 3 months allowed before actual termination of payments, provided under present law.

The bill also adds a new subsection (G) which provides that an individual be considered presumptively disabled when he or she applies

for SSI disability benefits if, within the preceding four years, such individual had lost SSI disability status or title II disability insurance status solely due to performance of substantial gainful activity. This bill would allow an individual to begin receiving SSI benefits immediately after a determination that he or she meets the income and assets requirements, whether or not a new determination of disability has been completed, and permit the individual to continue to receive benefits unless and until it is determined he or she did not meet the disability requirements.

The amendments made by this section would be effective July 1, 1980, and apply with respect to individuals whose disability had not been determined to cease prior to that date.

Current law allows a "trial work period" of 9 months during which an individual's employment activities and earnings are not used as criteria for determining ability to engage in SGA. If an examination of the facts after the trial work period shows that the individual has performed SGA, he or she loses disability status and eligibility for SSI benefits. SSI payments actually cease 3 months after the end of the 9 month trial work period if an individual is determined to be able to engage in SGA. (During the trial work period, earnings in excess of the allowable disregards will reduce a person's monthly SSI payment.) Loss of SSI eligibility may also mean loss of Medicaid and title XX social services.

Under current law, an individual who loses eligibility for SSI benefits as a result of SGA must reapply as a new applicant in order to reestablish eligibility for SSI disability payments. The same procedures are followed in processing the application of this person as in the processing of a new disability application. A new medical determination of disability has to be completed before this person can receive SSI benefits. This process may take several months.

For the month of December 1978, the average time between application and receipt of SSI benefits for regular disability decisions was 56 days, and for over 15 percent of such applicants it took over 90 days. A person who is determined to be disabled and eligible for SSI benefits, who subsequently gets a job and then loses SSI eligibility because of earnings in excess of the SGA limit, could lose this job and then have to wait 2, 3, or more months before reestablishing eligibility for SSI payments. The prospect of going several months without earnings, SSI benefits, and possible Medicaid coverage is a tremendous disincentive for many disabled individuals to seek employment.

The committee believes that many disabled individuals receiving SSI benefits would like to work. Because of their disability, however, they are uncertain about their ability to maintain a regular job. As a result, they do not even attempt to find work because of the fear that, if they find a job and then lose it, they might face a long period without earnings, SSI payments, or health care.

The provisions in this section would reduce the work disincentive created by the frequently lengthy disability determination process. It would do this by providing that, if a disabled individual lost his job within one year after SSI benefits had terminated as a result of the performance of SGA, he or she could automatically begin receiving benefits again. If the individual lost his or her job within the subsequent 4 years, he or she would be considered presumptively disabled

and eligible for benefits upon a determination of need, but would thereafter be subject to a new disability determination.

In making this new disability determination, the administrative agency would not be precluded from taking into account the work and earnings of the individual that were previously determined to indicate an ability to perform SGA. In evaluating the previously performed SGA, the agency would have to apply all existing criteria and procedures that would be applied in the case of a new applicant for SSI disability payments who had current or previous employment and earnings. In other words, the provisions of this bill incorporates and reinforces the concept and practice in present law that an individual can be eligible for SSI disability payments despite a previously demonstrated ability to perform SGA.

The presumptive disability provision in section 3(b) of this bill is different from that contained in section 1631(c) of current SSI law. Under section 1631(c), the Secretary of HEW may pay benefits to an applicant, prior to determination of disability of blindness, if such an individual is "presumptively disabled or blind" and determined to be otherwise eligible for such benefits. Such payments can only be made for up to 3 months and are not considered to be overpayments if the individual is subsequently determined not to be disabled or blind. The applicability of presumptive eligibility under present law is extremely narrow, limited generally to those disabled individuals whose impairments are obvious and extremely severe.

Unlike presumptive disability under section 1631(c), presumptive disability payments provided under this bill would not be limited to three months and would begin immediately upon a determination that the individual met the income and assets tests.

An individual who would qualify for the presumptive disability payments provided under either section 1631(c) of present law or section 1614(a)(3) added by this bill could chose to receive payments under the section that was most advantageous to him or to her.

As reported by the Committee, H.R. 3236, the "Disability Insurance Amendments of 1979," would require the Secretary of HEW to submit to Congress by January 1, 1980 a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. The Committee requests that this report also address and make recommendations pertaining to the establishment of appropriate time limitations governing decisions on claims for benefits under the Supplemental Security Income (SSI) program, title XVI of the Social Security Act.

SECTION 5. RESEARCH AND DEMONSTRATION PROJECTS PERTAINING TO THE SUPPLEMENTAL SECURITY INCOME PROGRAM

Section 5 of the bill amends section 1110 of the Social Security Act to authorize the Secretary of HEW to conduct experimental, pilot, or demonstration projects to test various alternatives aimed at improving the Supplemental Security Income program. Section 5(b)(1) gives the Secretary authority to waive any of the requirements, conditions, or limitations of title XVI to the extent necessary to carry out the demonstration projects. This authority would allow the Secretary to waive certain conditions of current SSI law which would otherwise

apply but which are not compatible with the purposes of a particular demonstration project.

Section 5(b)(1) also specifies the method for paying the costs of authorized demonstration projects. Any benefit or administrative costs of the project in excess of those that would have been incurred without the project may be met by the Secretary from appropriations made to carry out title XVI. The costs of any such project which is carried out in coordination with one or more related projects under other Social Security Act titles may be allocated among the appropriations available for such projects and any trust funds involved. If, in the administration of any demonstration or pilot project authorized under this section, a State is requested to make supplementary payments not otherwise provided, or to provide medical assistance under title XIX to individuals not eligible for such benefits, the Secretary must reimburse the State for the non-Federal share of such payments from amounts appropriated for title XVI.

While the committee feels that demonstration authority would be beneficial in allowing HEW to test various alternatives with the objectives of improving the administration of the program and treatment of its aged, blind, and disabled beneficiaries, the committee also feels that such authority should not be unlimited. Section 5(b)(2) of the bill provides that the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income or resources as a result of his or her participation in the project. This would not preclude, for example, experimental projects in which the individuals involved receive wages from employment in place of some portion of their SSI benefits, or projects that provide for the "cashing-out" of (providing cash in place of) food stamps. It is the intent of the committee that no individual's total income or resources before participation in a particular demonstration project, including all cash and in-kind assistance available to the individual from Federal, State or local programs, be substantially reduced as a result of participation in the project.

To protect the rights of persons who would not want to participate in a demonstration project authorized under this section, the committee bill provides that the Secretary may not require any individual to participate in a project, and must insure that voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk. The Secretary also must insure that any individual may revoke at any time his or her voluntary agreement to participate. It is the committee's intent that once an individual revokes consent to participate, and where a reduction in such individual's income and resources pursuant to this section has occurred, that individual will be immediately restored to the benefit level to which he or she would have been entitled in the absence of the demonstration project.

In December 1978, approximately 7.5 percent of disabled individuals receiving SSI benefits were under age 18. It is the intent of the committee that the demonstration projects authorized under this sec-

tion include projects aimed at improving our understanding of the unique problems of disabled individuals 18 and under. The committee bill would also require the Secretary to include in the project carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts with the objective of preventing the onset of irreversible medical conditions which may result in permanent disability. Such experiments should include projects in residential care treatment centers. It is also the intent of the Committee that demonstration projects under this section include projects experimenting with changes in the current definition of disability in the SSI program.

SECTION 6. TERMINATION OF ATTRIBUTION OF PARENT'S INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

Section 6(a) would delete the provision in current law underwhich the income and resources of the parents continue to be attributed to a blind or disabled child from age 18 through 21, if the child is in an educational or training program. Present law requires that the parent's income must be deemed to a blind or disabled child in determining the child's eligibility for SSI and amount of SSI benefit. The term "child" is defined to include an individual age 18 through 21 who is in school or in a training program. Section 6(a) would provide that, for purposes of the deeming requirement, the term "child" would apply only to individuals under age 18, whether or not the individual is in school or training.

Under the present definition of a child, a blind or disabled individual over 17 who is not in a training program is treated as an adult for purposes of SSI, and his or her need is determined on the basis of his or her own income without regard to that of the parents. However, an individual between the ages of 18 and 21 who is participating in any form of training has a part of his or her parents' income deemed to him, which frequently makes him ineligible for any SSI benefit or eligible for a benefit of substantially smaller amount than the child who is not taking some form of training.

This section of the committee bill would correct this situtation by providing that the parents' income not be taken into account for any individual over age 17. This should remove current disincentives for blind and disabled children to particiapte in available training programs. The committee bill carefully preserves the existing exemptions with respect to earnings of an individuals beyond 17 who is taking training.

Section 6(b) of the bill provides that the amendment made by this provision is effective July 1, 1980. It is the committee's intent that no person between ages 18 and 21, who was receiving SSI benefits for the month of June 1980, should have his or her benefits reduced as a result of this amendment. It is for this reason that section 6(b) provides that the amendment made by subsection (a) would not apply in the case of any child age 18 or over who receives a SSI benefit for June 1980, if such child's benefit would be greater without application of this amendment.

SECTION 7. INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

Section 7(a) would require the Secretary of HEW to provide individuals who apply for SSI benefits with notices of the decision made regarding their application. This notice must contain a statement of the case setting forth (a) a citation and discussion of the pertinent law and regulation, (b) a list of the evidence of record and a summary of the evidence, and (c) the Secretary's determination and the reason or reasons upon which it is based. Although the amendment is broadly phrased so as to apply to all decisions under title XVI, it is designed primarily to improve the Supplemental Security Income denial notice. Inadequacies in the SSI denial notices were brought to the committee's attention during hearings and mark-up of the bill. It is the position of the committee that a computer notice which merely informs the applicant that he or she has been denied benefits is inadequate. Neither is it sufficient that the notice merely state the definition of disability or the income and resource limitations without applying those criteria to the particular facts of the applicant's situation.

The committe believes that a brief statement of the pertinent law and regulations, a concise summary of the evidence of record which is used to support the decision, and the basic rationale for the decision will add a number of positive factors to the adjudication process. The agency decision will be on a sounder base because the disability examiner would be required to formulate the reasons for his action in written form, and the claimant might be less likely to appeal his decision if he understands how the law relates to his particular case. It should be recognized that this provision could take some additional staff resources and increase processing time to a small degree. It is not the intention of the committee that the decision notice be a voluminous document, or that notices of decisions allowing SSI eligibility be as detailed as notifications that benefits have been denied. A written rationale for the allowance decisions would improve the determination and quality review processes and the application of this section to disability allowances should be viewed in this light.

Section 7(b) provides that the amendment made by this section shall apply with respect to decisions made on or after July 1, 1980.

SECTION 8. CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER THE VOCATIONAL REHABILITATION PLANS

Section 8 of the bill amends section 1631(a) of the Social Security Act to provide that a disabled individual receiving SSI benefits will not have his or her benefits terminated if such individual recovers from the physical or mental impairment upon which eligibility is based, if he or she (1) is participating in an approved vocational rehabilitational program under title I of the Rehabilitation Act of 1973, and (2) the Commissioner of Social Security determines that completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may be permanently removed from the disability rolls.

Under present SSI law (section 1615 of the Social Security Act), blind and disabled individuals must be referred to the appropriate

State agency administering the State plan for vocational rehabilitation services, approved under the Vocational Rehabilitation Act, for a review of such individual's need for and utilization of available vocational rehabilitation services. The objectives of vocational rehabilitation for SSI recipients is to return as many disabled individuals as possible to productive, self-supporting work activity. In the spirit of this objective, the Secretary of the Department of Health, Education, and Welfare has established criteria for the purpose of providing vocational rehabilitation to those who are most likely to be restored to productive capacity and excluding persons who can be expected to go off the SSI rolls without such services because their impairments are responding to treatment.

The committee bill would allow certain SSI recipients enrolled in an approved vocational rehabilitation program to continue receiving SSI benefits for a specified period of time or until completion of the program, despite medical recovery that otherwise would make the individual ineligible for benefits. It is the feeling of the committee that extending income support during the period of rehabilitation and training, to an individual who continues to meet the SSI income and resource limits would increase the likelihood that such individual could complete the program.

The committee realizes that a person's disabling impairment or condition can improve to the extent that he or she no longer meets the strict medical disability criteria qualifying the individual for SSI, yet not amount to total recovery. In these situations, completion of the voctional rehabilitation program may make a great difference in the ultimate degree of recovery and the level of productivity and self-sufficiency achieved by an individual.

Section 8 (b) provides that the amendment made by subsection (a) shall be effective July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

V. Cost Estimates

Committee estimate

In compliance with clause 7(a) of rule XVIII of the Rules of the House of Representatives, the following statement is made: the committee agrees with the cost estimate prepared by the Congressional Budget Office which is included below.

Statement regarding new budget authority and tax expenditures

With respect to clause 2(1)(3)(B) of rule XI of the Rules of the House, the committee advises that the bill does not provide new budget authority or new or increased tax expenditures; therefore, the report does not contain a statement required by section 308(a) of the Congressional Budget Act of 1974.

Cost estimate prepared by Congressional Budget Office

In compliance with clause 2(1)(3)(C) of rule XI, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by the Congressional Budget Office is provided:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., April 24, 1979.

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 prepared the attached cost estimate for H.R. 3464, the Supplemental Security Income Disability Amendments of 1979.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

APRIL 24, 1979.

1. Bill number: H.R. 3464.

2. Bill title: Supplemental Security Income Disability Amendments of 1979.

3. Bill status: As ordered reported by the House Ways and Means Committee on April 10, 1979.

4. Bill purpose: The bill amends title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income (SSI) program; to provide that all applicants for SSI receive a citation summarizing the evidence, the law, and the reasons for the decision concerning their case; and to allow, under certain conditions, research and demonstration projects pertaining to the SSI program. All sections of the bill become effective on July 1, 1980 except the authority for research and demonstration projects that becomes effective upon enactment.

5. Cost estimate: This bill would result in additional future federal liabilities through an extension of an existing entitlement and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the budget authority needed to cover the estimated outlays that would result from enactment of H.R. 3464.

	Millions
Required budget authority:	
Fiscal year:	
1980	$7
1981	63
1982	118
1983	149
1984	158
Estimated outlays:	
Fiscal year:	
1980	7
1981	63
1982	118
1983	149
1984	158

The costs of this bill fall within budget functions 550 and 600.

6. Bases of estimate: Sections 2 and 3—Alter the Earnings Level for Determining Substantial Gainful Activity and Permit the Ex-

clusion of Work-Related and Certain Costs of Impairment-Related Work Expenses for the Disabled.

The substantial gainful activity (SGA) limit under current law and regulations is $280 a month in gross earnings. Section 2 would permit the deduction of the first $65 of monthly earnings, the deduction of certain impairment related work expenses, and the deduction of 50 percent of remaining monthly earnings in determining SGA. The allowance of these deductions effectively raises the SGA limit from $280 a month to at least $444 a month for those with no impairment related expenses (as of April 1979).

Section 3 would permit the deduction of a) the first $65 of monthly earnings, b) 20 percent of gross earnings as a work related expense disregard, c) impairment related work expenses paid for by certain severely disabled individuals, and d) 50 percent of remaining monthly earnings for the purposes of determining an SSI benefit. Under current law and regulations, only the first $65 of monthly earnings and 50 percent of remaining monthly earnings may be deducted.

The extension of deductions in calculating the SGA will both permit some individuals to remain on SSI who otherwise would have left the program and will increase the number of eligible individuals. The expansion of deductions for the purpose of determining benefits will result in higher benefits to new and old recipients.

According to computer simulations on the Survey of Income and Education, approximately 110,000 individuals who are now earning too much to qualify will become eligible for SSI as a result of the effective increase in the SGA. These individuals would become eligible on average of $80 per month in cash benefits (including in the benefit calculation the 20 percent work expense deduction). This estimate assumes that 6,000 of these individuals enter SSI in 1980, and an additional 25,000 each in 1981 and 1982.

In addition, the increase in SGA will permit 1,000 recipients to remain on SSI in 1980 who otherwise would have left the program because of SGA. In 1981 and 1982, an additional 4,000 recipients per year are assumed to remain on the program. Both those remaining on the program and the new recipients will add to medicaid costs. This estimate assumes that each recipient would receive medicaid benefits equal to the average medicaid benefit for a noninstitutionalized disabled public assistance recipient. Only the federal share of this medicaid cost is included in this estimate.

Increases in SSI and medicaid costs due to additions to the caseload.

	Millions
SSI:	
Fiscal year:	
1980	$1
1981	22
1982	56
1983	76
1984	81
Medicaid:	
Fiscal year:	
1980	(1)
1981	10
1982	27
1983	37
1984	39

[1] Negligible.

The 20 percent work expense deduction and the impairment related work expense deduction will also increase the benefits of workers on the SSI program. These costs are shown below. The impairment related expense assumes that 5 percent of those with earnings will be permitted to deduct $100 a month for attendant care and other impairment related expenses. The 5 percent is consistent with tabulations of the Survey of Income and Education which show 5 percent of current SSI recipients, under 65, with earnings, require assistance in leaving their home.

Increases in SSI costs due to utilization of the work expense deduction for those currently on the program and increases due to impairment related work expenses.

	Millions
20 percent work expense:	
Fiscal year:	
1980	$4
1981	15
1982	15
1983	15
1984	15
Impairment related work expense:	
Fiscal year:	
1980	
1981	3
1982	4
1983	4
1984	4

Finally, additional administrative costs will be needed to deal with the increased caseload. The administrative estimates have been developed by the Social Security Administration.

Fiscal year:	*Millions*
1980	
1981	$4
1982	5
1983	5
1984	6

SECTION 4. EXTENSION OF TRIAL WORK PERIOD; PRESUMPTIVE DISABILITY

This section would permit an SSI recipient to maintain their disability status for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. Also, persons who apply for SSI benefits would be considered presumptively disabled if they had received disability insurance payments or SSI disability benefits within the preceding four years.

This section is not expected to add significantly to costs. It is not known, however, how many people will leave the program because of SGA or other reasons, and then reapply within a four year period. Presumptive disability determinations are made within the current program in about 20 percent of all initial acceptances.

SECTION 5. RESEARCH AND DEMONSTRATION PROJECTS PERTAINING TO SSI

The Administration while asking for the authority to operate demonstration projects in the SSI program has not announced any specific projects which it hopes to implement. Similar authority in the AFDC

program will result in about $3 million of costs in 1980. The estimate shown here assumes a similar build up in costs by 1983.

Demonstration projects:

Fiscal year:	*Millions*
1980	
1981	
1982	$1
1983	2
1984	3
	4

SECTION 6. TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

Under current law an individual age 18 through 21, who is in a school or training program, has his parents' income and resources deemed to the child. This section would treat such an individual as living in the household of another and generally a one-third reduction in benefits would result. This section includes protection against any current recipient losing benefits. The section would make eligible for the program some people who cannot now qualify for benefits.

Change in status of 18 to 21 year olds

Fiscal year:	*Millions*
1980	
1981	
1982	$2
1983	2
1984	2
	2

SECTION 7. INFORMATION TO ACCOMPANY SECRETARY'S DECISION AS TO CLAIMANTS' RIGHTS

This section requires that claimants for SSI disability benefits be given a citation of the pertinent law and regulations, a summary of the evidence, and the reason or reasons upon which a decision is based. The administrative costs of this provision were supplied by the Social Security Administration. The costs could be reduced by 20 percent if the information was required only in the case of denials.

Decision letter:

Fiscal year:	*Millions*
1980	$2
1981	6
1982	7
1983	7
1984	7

SECTION 8. CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

This section provides that no SSI beneficiary can be terminated due to medical recovery if the beneficiary is participating in an approved vocational rehabilitation program which increases the likelihood that the beneficiary may be permanently removed from the roles.

This section is not expected to add significantly to costs, although there were almost 97,000 SSI recipients enrolled in vocational rehabilitation programs as of September 30, 1978.

General estimating problems

Cost estimates involving disability determinations are difficult and seldom precise. There is a paucity of information available on current disabled recipients and even less information is available on the potentially eligible recipients. In addition, it is difficult to predict the behavioral response of either recipients or administrators. This cost estimate has made no adjustment for three potentially important factors because of a lack of detailed information on which to base an adjustment. First, no adjustment has been made to reduce costs because of increased work response of current recipients to the increased work incentives provided in this bill. Second, no decreased work response has been calculated for those who might work less in an attempt to become eligible for either SSI or disability insurance. Finally, the estimate implicitly assumes no change in the medical or vocational factors currently used to determine disability. If the medical listings or vocational factors are liberalized as a result of the increase in the SGA limit, the costs estimated here could be significantly understated.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Charles Seagrave.
10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

VI. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

Voice of the committee

In compliance with clause 2(l)(2)(B) of rule XI, the following statement is made: The bill, H.R. 3464, was ordered favorably reported to the House of Representatives by a voice vote.

Oversight findings

With respect to clause 2(l)(3)(A) of rule XI, the committee advises that, as a result of its oversight activities, it approved H.R. 3464 which would increase the earnings level for determining substantial gainful activity, provide a "work related expense" disregard for disabled SSI applicants and recipients, and allow certain severely disabled or blind individuals to also disregard costs of attendant care that is necessary for them to obtain or maintain employment.

Oversight by Committee on Government Operations

With respect to clause 2(l)(3)(D) of rule XI, the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of this bill.

Inflationary impact

In compliance with clause 2(l)(4) of rule XI, the committee states that the enactment of this bill is not expected to have an inflationary impact on prices and costs in the operation of the national economy.

VII. 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):

SOCIAL SECURITY ACT

* * * * * * *

TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

* * * * * * *

Part A—General Provisions

* * * * * * *

COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS

Sec. 1110. (a)(*1*) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1957, $5,000,000 and for each fiscal year thereafter such sums as the Congress may determine for [(1)] (*A*) making grants to States and public and other nonprofit organizations and agencies for payment part of the cost of research or demonstration projects such as those relating to the prevention and reduction of dependency, or which will aid in effecting coordination of planning between private and public welfare agencies or which will help improve the administration and effectiveness of programs carried on or assisted under the Social Security Act and programs related thereto, and [(2)] (*B*) making contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research or demonstration projects relating to such matters.

[(b)](*2*) No contract or jointly financed cooperative arrangement shall be entered into, and no grant shall be made, under [subsection (a)], *paragraph (1)*, until the Secretary obtains the advice and recommendations of specialists who are competent to evaluate the proposed project as to soundness of their design, the possibilities of securing productive results, the adequacy of resources to conduct the proposed research or demonstrations, and their relationship to other similar research or demonstrations already completed or in process.

[(c)](*3*) Grants and payments under contracts or cooperative arrangements under [subsection (a)] *paragraph (1)* may be made either in advance or by way of reimbursement, as may be determined by the Secretary; and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purposes of this [section] *subsection.*

(*b*)(*1*) *The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only*

for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616), or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;,

(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.

TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED

* * * * * * *

PART A—DETERMINATION OF BENEFITS

ELIGIBILITY FOR AND AMOUNT OF BENEFITS

Definition of Eligible Individual

SEC. 1611. (a) * * *

* * * * * * *

Limitation on Eligibility of Certain Individuals

(e)(1) * * *

* * * * * * *

(4) No benefit shall be payable under this title with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month after the third month in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).

* * * * * * *

INCOME

Meaning of Income

SEC. 1612. (a) * * *

* * * * * * *

Exclusion From Income

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) * * *

* * * * * * *

(4)(A) * * *

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, [plus one-half of the remainder thereof, and (ii)] *(ii) an amount equal to 20 percent of such individual's gross earned income for the period involved, representing expenses attributable to the earn-*

ing of such income, (iii) such additional amounts of earned income of such individual, if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, (iv) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (v) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

* * * * * * *

MEANING OF TERMS

Aged, Blind, or Disabled Individual

SEC. 1614. (a)(1) * * *

* * * * * * *

(3)(A) * * *

* * * * * * *

(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. *Such criteria must in any event provide that an individual engaged in gainful activity shall not, by reason of his or her earnings from such activity, be considered able to engage in substantial gainful activity unless the total amount of such earnings for the period involved exceeds the level at which the portion thereof not excluded (in determining such individual's income) under clauses (i) and (iv) of section 1612(b)(4)(B), reduced by the sum of the amounts (if any) excluded for such period under clause (iii) of such section 1612(b)(4)(B), equals the amount of the benefit or benefits that would be payable to such individual for such period under section 1611(b)(1) 1611(b)(2) (whichever is applicable to such individual) if he or she had no income of any kind. For purposes of the preceding sentence, the term "amounts (if any) excluded for such period under clause (iii) of such section 1612(b)(4)(B)" shall include, as amounts so excluded with respect to any of the care, services, or items referred to in clause (iii) of such section 1612(b)(4)(B) which were furnished without cost to the individual, such amounts as the Secretary may prescribe.* Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of *subparagraph (F) or* paragraph (4), shall be found not to be disabled.

* * * * * * *

(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall nonetheless be considered to be disabled through the end of the month preceding the month in which such individual's disability ceases or, if later (and

subject to section 1611(e)(4)), the fifteenth month following the end of such individual's trial work period.

(G) An individual applying for benefits under this title as a disabled individual (or as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the four years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this paragraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.

Income and Resources of Individuals Other Than Eligible Individuals and Eligible Spouses

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age [21,] *18*, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

* * * * * * *

PART B—PROCEDURAL AND GENERAL PROVISIONS

PAYMENTS AND PROCEDURES

Payment of Benefits

SEC. 1631. (a)(1) * * *

* * * * * * *

(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment on which the individual's eligibility for such benefit is based has or may have ceased if—

(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (folowing his participation in such program) be permanently removed from the disability benefit rolls.

* * * * * * *

Hearings and Review

(c) (1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. *Any such decision by the Secretary shall contain a statement of the case setting forth (A) a citation and discussion of the pertinent law and regulation, (B) a list of the evidence of record and a summary of the evidence, and (C) the Secretary's determination and the reason or reasons upon which it is based.*

The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

VIII. DISSENTING VIEWS OF HON. J. J. PICKLE
PROVISION ON SGA

H.R. 3464 would award Federal welfare benefits to persons who supposedly cannot work at all but who actually have a wage level that exceeds the Federal minimum wage, and that in some cases could exceed $10,000 per year.

H.R. 3464 is, in many respects, a major step in improving the SSI disability program, and for the most part complements the provisions of H.R. 3236, the Social Security Disability Insurance Amendments of 1979. However, the provision of H.R. 3464 that raises the substantial gainful activity earnings amount for SSI recipients is injudicious and is contrary to the purpose of the program as stated in the law.

Both the social security and the supplemental security income disability programs were established to pay benefits to those who are totally disabled and who cannot work. The definition of disability that is used for both programs in fact states that to be considered disabled, a person must be unable "to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment." (Sec. 223(d)(1)(A) and Sec. 1614(a)(3)(A) of the Social Security Act, as amended.)

The dollar amount of earnings set by the Social Security Administration to define "substantial gainful activity" is currently $280 per month. This test is used to tell whether someone is actually unable to work to any significant degree because of their impairment.

H.R. 3464, however, would raise this amount for SSI recipients to $479 per month (based on a federal non-supplemented SSI benefit of $207 per month). The allowable earnings increase if the person is married, to $686 per month for a couple. Earnings could also be much higher if the person had impairment-related expenses that could be deducted from earnings before the SGA amount is applied.

This change amounts to transforming the SSI disability program from a total disability program into a partial disability program--someone who can earn almost $500 a month and still get benefits is certainly able to work, and cannot be considered "unable to engage in substantial gainful activity" as the statute requires.

Again, the definition in the law still requires that benefits be paid only to people who are unable to work, not to people who have severe impairments but are able to work in spite of them. If it is the will of Congress to pay benefits to needy people who are limited in their ability to work by physical handicaps, but who can nonetheless earn substantial amounts, then the definition of disability for SSI recipients should be changed in the law to reflect this change in purpose.

An additional important consideration is the impact of this change on the social security disability (SSDI) program. It is totally incongruous to have the same definition for both programs, and yet permit social security DI beneficiaries to earn only up to $280 per month

while allowing SSI recipients, who are supposed to be just as disabled, to earn far more. The public confusion this situation would create would be enormous, and could only be resolved either by making the two amounts the same, with a resultant increase in cost which could be unacceptable for the social security program, or by making the SSI program clearly and openly a partial disability program that is not limited to those totally unable to work. In other words, this change puts these two disability programs on very different courses in fact, although their legal base remains the same. These differences need to be discussed. I do not say this in a spirit of hostility but in a spirit of grave concern about each of the two programs.

Finally, the social security actuaries have estimated that raising the GSA amount for SSI recipients will have an indirect but substantial effect on the DI program, because of new beneficiaries drawn into SSI, and subsequently into DI, by the higher amount of allowed earnings. Because the definition of disability is the same for both DI and SSI, a person found disabled for SSI would only have to reduce his earnings below $280 (a decrease which would be made up in SSI payments) to qualify for DI. This effect is estimated to cost the social security program $211 million over the first five years. Moreover, the costs to social security continue to increase with time. For instance, by the year 2000, the cost to the social security DI system would reach 0.05 percent of taxable payroll—or $2 billion in that single year. This cost—which would have to be covered by social security taxes—could only be reduced by severing the connection between SSI disability entitlement and DI entitlement; i.e., by rewriting the definition in SSI to reflect the level of work that is acceptable under the new SGA amount approved by the Committee.

It is not clear to me that this country is really prepared to pay SSI benefits, originally intended for the totally disabled, to people who, while they may have severe handicaps, are still able to earn very substantial amounts. I would certainly not want to discourage such people from working, and I encourage their efforts to support themselves. Ironically, we may be creating a situation where some disabled persons could not get off welfare no mater how hard they tried. However, it does not seem appropriate to subsidize this group of handicapped individuals through a program intended for those who cannot work at all. If Congress wishes to make the SSI program a benefits and aid program for the partially disabled, it should do so openly and directly, by changing the SSI definition of disability to a definition of limited ability to work.

The bill as approved by the Committee represents a major change in the focus of the federal disability program without the necessary changes in the law, and thus has grave implications for the social security DI program as well.

For these reasons, I cannot support this legislation.

J. J. PICKLE.

○

Union Calendar No. 42

96TH CONGRESS
1ST SESSION

H. R. 3464

[Report No. 96–104]

To amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1979

Mr. CORMAN (for himself, Mr. BAFALIS, Mr. RANGEL, Mr. STARK, Mr. BROD-HEAD, Mr. DOWNEY, and Mr. FOWLER) introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 25, 1979

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 title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes.

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

That this Act may be cited as the "Supplemental Security Income Disability Amendments of 1979".

EARNINGS LEVEL FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

SEC. 2. (a) Section 1614(a)(3)(D) of the Social Security Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such criteria must in any event provide that an individual engaged in gainful activity shall not, by reason of his or her earnings from such activity, be considered able to engage in substantial gainful activity unless the total amount of such earnings for the period involved exceeds the level at which the portion thereof not excluded (in determining such individual's income) under clauses (i) and (iv) of section 1612(b)(4)(B), reduced by the sum of the amounts (if any) excluded for such period under ~~clauses (ii) and (iii)~~ *clause (iii)* of such section 1612(b)(4)(B), equals the amount of the benefit or benefits that would be payable to such individual for such period under section 1611(b)(1) or 1611(b)(2) (whichever is applicable to such individual) if he or she had no income of any kind. For purposes of the preceding sentence, the term 'amounts (if any) excluded for such period under ~~clauses (ii) and (iii)~~ *clause (iii)* of such section 1612(b)(4)(B)' shall include, as amounts so excluded with respect to any of the care, services, or items referred to in clause (iii) of such section 1612(b)(4)(B) which

were furnished without cost to the individual, such amounts as the Secretary may prescribe.".

(b) The amendment made by subsection (a) shall apply with respect to activities in which individuals engage on and after July 1, 1980.

EXCLUSION OF WORK-RELATED EXPENSES, AND CERTAIN COSTS OF IMPAIRMENT-RELATED WORK EXPENSES, FOR THE DISABLED ~~(AND FOR THE BLIND)~~

SEC. 3. (a) Section 1612(b)(4)(B) of the Social Security Act is amended by striking out "plus one-half of the remainder thereof, and (ii)" and inserting in lieu thereof the following: "(ii) an amount equal to 20 percent of such individual's gross earned income for the period involved, representing expenses attributable to the earning of such income, (iii) such additional amounts of earned income of such individual, if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, (iv) one-half of the amount of earned

income not excluded after the application of the preceding provisions of this subparagraph, and (v)''.

(b) Section 1612(b)(4)(A) of such Act is amended by striking out ''plus one-half of the remainder thereof,'' in clause (i), and by striking out ''and (iii)'' and inserting in lieu thereof the following: ''(iii) such additional amounts of earned income of such individual, if such individual's blindness results in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services which are necessary for that purpose, whether or not such services are also needed to enable him to carry out his normal daily functions, (iv) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, (v) such additional amounts of earned income of such individual, if such individual's blindness results in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, and (vi)''.

~~(c) The amendments made by this section~~ *(b) The amendment made by subsection (a)* shall apply with respect to expenses incurred on and after July 1, 1980.

EXTENSION OF TRIAL WORK PERIOD; PRESUMPTIVE DISABILITY

SEC. 4. (a)(1)(A) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall nonetheless be considered to be disabled through the end of the month preceding the month in which such individual's disability ceases or, if later (and subject to section 1611(e)(4)), the fifteenth month following the end of such individual's trial work period.".

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month after the third month in which he engages in substantial gainful activity during the

fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).".

(b) Section 1614(a)(3) of such Act (as amended by subsection (a)(1)(A) of this section) is further amended by adding at the end thereof the following new subparagraph:

"(G) An individual applying for benefits under this title as a disabled individual (or as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the four years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this paragraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.".

(c) The amendments made by this section shall be effective July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

RESEARCH AND DEMONSTRATION PROJECTS PERTAINING TO SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 5. Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "Sec. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose

from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616), or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction

in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.".

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 6. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall be effective July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child *age 18 or over* who receives a supplemental security income benefit for June 1980, during any period for which such benefit would be greater without the application of such amendment.

~~FEDERAL REVIEW OF STATE AGENCY DISABILITY ALLOWANCES~~

~~SEC. 7. Notwithstanding any other provision of law, any requirement under section 221 of the Social Security Act that the Secretary of Health, Education, and Welfare review specific percentages of all determinations of disability made by State agencies pursuant to that section shall not be applicable to determinations made for purposes of the supplemental security income program.~~

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

~~SEC. 8.~~ *SEC. 7.* (a) Section 1631(c)(1) of the Social Security Act is amended by inserting after the first sentence the

following new sentences: "Any such decision by the Secretary shall contain a statement of the case setting forth (A) a citation and discussion of the pertinent law and regulation, (B) a list of the evidence of record and a summary of the evidence, and (C) the Secretary's determination and the reason or reasons upon which it is based. ~~The statement of the case shall not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant shall be informed of its existence, and it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.~~".

(b) The amendment made by subsection (a) shall apply with respect to decisions made on and after July 1, 1980.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

~~SEC. 9.~~ *SEC. 8.* (a) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment on

which the individual's eligibility for such benefit is based has or may have ceased if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(b) The amendment made by subsection (a) shall be effective July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

Union Calendar No. 42

96TH CONGRESS
1ST SESSION

H. R. 3464

[Report No. 96-104]

A BILL

To amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes.

APRIL 5, 1979

Referred to the Committee on Ways and Means

APRIL 25, 1979

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

SUPPLEMENTAL SECURITY INCOME DISABILITY AMENDMENTS OF 1979

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3464, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. CORMAN) will be recognized for 1 hour, and the gentleman from New York (Mr. CONABLE) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. CORMAN asked and was given permission to revise and extend his remarks.)

Mr. CORMAN. Mr. Chairman, there are disabled supplemental security income (SSI) recipients, including severely disabled individuals, who, despite their handicaps, are desirous of working and reducing to the extent possible their dependence on the SSI program. Under present SSI law, however, there are substantial disincentives for disabled recipients to seek or maintain employment.

Under current Federal SSI law and regulations, needy aged, blind and dis-

abled individuals with income and resources below specified levels may qualify for a maximum Federal SSI cash benefit of $208 a month as of July 1, 1979. In most States, individuals who qualify for SSI benefits also qualify for medicaid and social services under titles XVI and XX. For employed SSI beneficiaries, cash benefits are gradually reduced as the individual's earnings, subject to certain disregards, increase.

Under present law, to qualify for SSI benefits on the basis of disability, an individual must be "unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." The Secretary of HEW is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether a disabled individual is engaging in SGA is $280 a month.

The effect of the SGA test is to place an earnings limitation on disabled recipients which is lower than the point at which Federal SSI benefits paid to aged or blind recipients phase-out due to earnings. Moreover, the limitation results in a benefits "cliff" for disabled recipients. Rather than gradually phasing out of the program, as do the aged and the blind, the disabled individual loses all benefits when an earnings pattern in excess of $280 a month is demonstrated. Under current SSI provisions, (as of July 1, 1979) a disabled individual who earns more than $280 a month faces the loss of up to $1,200 in yearly Federal SSI payments plus the loss of any State SSI supplementation payments. In addition, he or she may lose social service assistance and medicaid.

Faced with this abrupt loss of income assistance, health care and social services, disabled individuals with employment potential are discouraged from seeking and accepting employment. Even those persons with a strong desire to work dare not risk the complete loss of medical care, income assistance and needed social services.

Another disincentive arises when a person who is determined to be disabled and eligible for SSI benefits subsequently gets a job and then loses SSI eligibility because of earnings in excess of the SGA limit. If he then loses his job, he may have to wait 2, 3, or more months before reestablishing eligibility for SSI payments. The prospect of going several months without earnings, SSI benefits, and possible medicaid coverage is a tremendous disincentive for many disabled individuals to seek employment.

For the purposes of reducing these work disincentives, H.R. 3464 would make the following changes in the SSI disability program, effective July 1, 1980:

With regard to SGA determination: The "substantial gainful activity" (SGA) earnings limit, currently $280 a month, would be raised to the level at which an individual's monthly countable earnings—that is, gross earnings minus specified disregards—equal to basic Federal SSI benefit for that month. Based on the July 1, 1979, monthly Federal SSI benefit of $208, under the bill the SGA earnings limit for that month would be $481 for a disabled individual with no excludable "impairment related work expenses." In determining countable earnings for purposes of the SGA earnings limit, an individual's gross monthly earnings would be reduced by the first $65 of such earnings and 50 percent of remaining earnings. Individuals whose disabilities are sufficiently severe to result in a functional limitation necessitating special assistance in order for them to work would be allowed an additional "impairment related work expense disregard." These severely disabled individuals would be allowed to reduce their countable earnings by an amount equal to the cost of specified services, devices or other items (not including routine drugs or routine medical services, unless those drugs or services are necessary for the control of the disabling condition) which, because of their disability, they must have in order to be able to work, regardless of who pays for the necessary services. This "impairment related work expense disregard" would be applied to an individual's earnings before the "50 percent of remaining earnings disregard" is applied.

In Summary, under the bill the following disregards would be allowed in determining countable earnings for purposes of SGA: the first $65 of monthly earnings; "impairment related work expenses" for certain severely disabled individuals; plus, 50 percent of remaining monthly earnings.

With regard to SSI payment determination: A "standard work related expense disregard" equal to 20 percent of gross earnings would be allowed in the determination of a disabled individual's monthly SSI payment. Individuals whose disabilities are sufficiently severe to result in a functional limitation requiring special assistance in order for them to work would be allowed an additional "impairment related work expense disregard" equal to the cost to the individual of any attendant care services, medical devices, equipment, prostheses, and similar items and services which are necessary for the individual to remain employed, whether or not such services or items are also needed to enable the person to carry out normal daily functions.

Under the bill, for purposes of determining the monthly SSI payment, the basic earnings disregards for a disabled individual would be:

The first $65 of monthly earnings—current law;

"Standard work related expense disregard" equal to 20 percent of gross earnings;

"Impairment related work expenses" of certain severely disabled individuals; plus

Fifty percent of remaining monthly earnings—current law.

The bill would also provide for disability status without SSI payments. A disabled SSI recipient would be allowed to retain disability status, without receiving SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. During this 12-month period, a person could immediately requalify for SSI payments if necessary because of a loss of or reduction in earnings. This 12-month period during which the individual would maintain disability status without SSI payments would follow the 9-month "trial work period," plus the 3 months allowed before actual termination of payments provided under present law.

In addition, a person who loses title II—disability insurance—or SSI disability status due to earnings in excess of the SGA limit would be considered presumptively disabled if he or she reapplies for SSI benefits within 4 years following the loss of disability status. Such an individual would begin receiving SSI payments immediately upon a determination that he or she meets the income and assets tests and would continue to receive benefits unless and until it was determined that the disability requirements were not met.

In addition to the changes in the SSI disability program summarized above, the bill contains the following provisions:

It would allow for certain SSI demonstration projects. The Secretary of HEW would be authorized to conduct experimental, pilot, or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program. The Secretary, however, would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project. The Secretary could not require any individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at anytime his or her voluntary agreement to participate.

The bill would modify current law pertaining to the deeming of parents' income to disabled or blind children. For purposes of SSI eligibility determination, the "deeming" of parents' income would be limited to disabled or blind children under 18 regardless of student status. Those individuals through 21 who are receiving benefits at the time of enactment would be protected against loss of benefits due to this change.

H.R. 3464 would modify current practices pertaining to the provision of decision notices for SSI applicants. The Secretary of HEW would be required to provide SSI applicants with a decision notice containing a citation of the pertinent law and regulations, a summary of the evidence, and the reasons for the decision on their application.

The bill would allow the continuation of SSI payments during participation in a rehabilitation program. An SSI beneficiary could not be terminated due to

medical recovery while he or she is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the person may be permanently removed from the disability benefit rolls.

I urge the Members of the House to vote in favor of this legislation.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. CONABLE asked and was given permission to revise and extend his remarks.)

Mr. CONABLE. Mr. Chairman, I rise in support of H.R. 3464, a measure to modify the supplemental security income program as it relates to financially needy disabled individuals so as to overcome significant work disincentives now built into this Federal income assistance program.

The legislation would respond to seriously disabled individuals who, despite their handicaps, desire to work and thus to reduce their dependence upon SSI. I believe that this is a sound objective, and that the committee's legislation, while perhaps not completely satisfactory in every respect, is on balance a substantial improvement over current policy.

The core of the legislation, which is also its more costly element, is found in sections 2 and 3. These provisions would markedly increase the earnings level for determining substantial gainful activity, a principal eligibility criteria in the SSI disability program. In place of the current SGA limit of $280, which is set by regulation, the earnings limit would be raised to the level at which an individual's monthly countable earnings would be equal to the basic Federal SSI benefit. Based on the anticipated monthly Federal SSI benefit level for the year beginning July 1, 1979, the SGA earnings limit would be $481 a month for a disabled person with no excludable impairment-related work expenses. An individual whose handicaps require him to have special assistance in order to work would be allowed to deduct from earnings the cost of such specialized services or devices, resulting in a SGA level above the $481 monthly figure in such cases. In determining earnings capacity, no ordinary work expenses, such as transportation or uniforms would be deducted from earnings.

In addition to the earnings disregards already in law and the impairment related deductions discussed above, ordinary work expenses would be deductible, on a 20 percent of earnings, flat-rate basis, for purposes of calculating a disabled person's monthly SSI benefit.

Another element of this legislation would allow a disabled SSI recipient to retain disability status, without receiving SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. Furthermore, loss of disability insurance or SSI disability due to earnings in excess of the SGA limit would result in one's being considered presumptively disabled if he or she reapplies for SSI benefits within 4 years. These provisions are designed to encourage severely disabled recipients to attempt gainful employment. They seek to remove the fear that employment failure could result in their being without income or medicaid assistance for a protracted period.

Together, these measures seek to overcome current policies which significantly discourage severely disabled people from trying to work even if they earnestly desire to do so and believe they can fulfill certain jobs.

In my judgment, welfare reform of this character and direction warrants our support.

The legislation before the House contains a number of other provisions designed to improve the SSI disability program. They include: First, authority for SSI demonstration projects designed to promote the objectives or improve the administration of the program; second, a modification of the "deeming" practice as it relates to parents' income to disabled or blind children at certain ages; third, a requirement that a more informative decision notice be sent to SSI applicants; and fourth, a provision barring termination, on medical grounds, of an SSI beneficiary while he is participating in an approved vocational rehabilitation program.

Mr. Chairman, the cost estimates furnished by the Congressional Budget Office indicate that the provisions of this bill will increase budget authority and outlays by $63 million in fiscal year 1981—the first full year of implementation—rising to $158 million in fiscal year 1984. The bulk of these increases stem from the provisions relating to the SGA test and to the treatment of ordinary work expenses and impairment-related work expenses. I might note, however, that the Congressional Office acknowledges that cost estimates involving disability determinations are not as precise as we would hope they would be. CBO cautions:

> There is a paucity of information available on current disabled recipients and even less information is available on the potentially eligible recipients. In addition, it is difficult to predict the behavioral reponse of either recipients or administrators.

Accordingly, while supporting the enactment of these provisions, which are the product of extensive, careful deliberations by the Subcommittee on Public Assistance on Unemployment Compensation over 2 or more years, I urge that we thoroughly monitor their effects to be certain that they are accomplishing their purposes and that the associated costs are within acceptable perimeters.

Mr. Chairman, I urge my colleagues in the House of Representatives to adopt H.R. 3464.

● Mr. STARK. Mr. Chairman, it is with great pleasure that I rise in strong support of H.R. 3464, the Supplemental Security Income Disability Amendments of 1979.

There are now severely disabled individuals on the SSI rolls, who, depsite their handicaps, want to work—and want to reduce their dependency on the SSI program. The present SSI statute, however, sets major obstacles in the path of those SSI beneficiaries who are looking for work. This legislation eliminates these work disincentives.

There is one point that I would like to emphasize. H.R. 3464 is not going to give anybody a free ride. The goals of this legislation are, in fact, quite modest—to give severely handicapped individuals who want to work, but cannot without some help from the Federal Government, the chance to do so. For a handicapped person, he chance to work is a chance for independence—a chance to live with an added measure of dignity.

Under current law an individual who earns $280 a month is engaged in "substantial gainful aitivity" (SGA) and therefore not eligible for SSI benefits. A person who fails the SGA test faces the loss of up to $1,200 in yearly Federal SSI benefits plus the loss of any State SSI supplementation payments. In addition, he or she may lose social service assistance and medicaid. Even those persons with a very strong desire to work cannot dare risk the complete loss of medical care, income assistance and needed social services.

H.R. 3464 would increase the SGA earnings limit to the level at which earnings equal the basic Federal SSI benefit for the month. The test of an individual's ability to engage in substantial gainful activity would be adjust to coincide more closely with the normal phase-out point for Federal SSI benefits.

Under current law only the blind are able to disregard expenses reasonably related to the earning of income for purposes of determining eligibility for, and the amount of, SSI benefits. H.R. 3464 would allow the disabled to disregard "impairment related work expenses" for purposes of determining eligibility and the amount of benefits. These include the costs of attendant care, as well as the costs of wheelchairs, braces, and the costs of drugs and services necessary to control the disabling condition and permit the individual to work. The bill also provides for a "standard work related expense disregard" equal to 20 percent of gross earnings for purposes of determining the amount of monthly benefits for an eligible person. These new disregards do not give the SSI beneficiary any more net income. They are in the bill because the Subcommittee on Public Assistance found that for the handicapped the cost of working can exceed the earnings from a job. Not only does her or she have the normal work related expenses such as transportation and uniforms, but there may also be work expenses related to the impairment such as a specially adapted telephone or typewriter, a wheelchair, urinary appliances or attendent care.

Under current law, an individual who loses SSI eligibility because his or her earnings exceed the SGA limit must reapply as a new applicant in order to reestablish eligibility for SSI benefits. A new medical determination must be made. A person who went off SSI because of his earnings could lose his job and then have to wait 2, 3 or more months before reestablishing eligibility for SSI and in many cases social services and Medicaid. Because of their handi-

caps disabled persons often cannot be sure that they will be able to remain in the work force once they leave the SSI rolls. The chance of having to go for months with nothing to fall back on is a major work disincentive—one which I have been concerned about for some time.

Last year I introduced legislation to correct this problem—legislation which passed the House overwhelmingly but never made it to the Senate floor. This year I introduced the same bill. Over 90 Members of the House joined me as cosponsors. I am particularly pleased to report that H.R. 3464 contains the provisions of my bill. It provides that a disabled person would retain disability status, without receiving benefits, for 12 months following termination of SSI benefits on account of earnings in excess of the SGA limit.

In addition, a person who loses SSI disability status because of earnings in excess of SGA would be considered presumptively disabled if he or she reapplies for SSI benefits within 4 years of the loss of disability status. Such a person would begin receiving benefits as soon as it was determined that he or she meets the income and assets test. Benefits would be terminated only when and if it was determined that the disability requirements were not met.

Mr. Chairman, this legislation puts people back to work. It mines a resource of talent and energy that has been sadly neglected in the United States—the millions of disabled Americans with the will to work. I urge my colleagues to vote for H.R. 3464.●

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Mr. CORMAN. Mr. Chairman, I yield back the balance of my time.

Mr. CONABLE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3464.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SUPPLEMENTAL SECURITY INCOME DISABILITY AMENDMENTS OF 1979

Mr. CORMAN. Mr. Speaker. I move that the House revolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. CORMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3464, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, June 4, all time for general debate on the bill had expired. Pursuant to the rule, the bill is considered as having been read for amendment. No amendments to the bill are in order, except amendments recommended by the Committee on Ways and Means and said amendments shall not be subject to amendment.

The text of the bill reads as follows:

H.R. 3464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Supplemental Security Income Disability Amendments of 1979".

EARNINGS LEVEL FOR DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

SEC. 2. (a) Section 1614(a)(3)(D) of the Social Security Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such criteria must in any event provide that an individual engaged in gainful activity shall not, by reason of his or her earnings from such activity, be considered able to engage in substantial gainful activity unless the total amount of such earnings for the period involved exceeds the level at which the portion thereof not excluded (in determining such individual's income) under clauses (i) and (iv) of section 1612(b)(4)(B), reduced by the sum of the amounts (if any) excluded for such period under clauses (ii) and (iii) of such section 1612(b)(4)(B), equals the amount of the benefit or benefits that would be payable to such individual for such period under section 1611(b)(1) or 1611(b)(2) (whichever is applicable to such individual) if he or she had no income of any kind. For purposes of the preceding sentence, the term 'amounts (if any) excluded for such period under clauses (ii) and (iii) of such section 1612(b)(4)(B)' shall include, as amounts so excluded with respect to any of the care, services, or items referred to in clause (iii) of such section 1612(b)(4)(B) which were furnished without cost to the individual, such amounts as the Secretary may prescribe.".

(b) The amendment made by subsection (a) shall apply with respect to activities in which individuals engage on and after July 1, 1980.

EXCLUSION OF WORK-RELATED EXPENSES, AND CERTAIN COSTS OF IMPAIRMENT-RELATED WORK EXPENSES, FOR THE DISABLED (AND FOR THE BLIND)

SEC. 3. (a) Section 1612(b)(4)(B) of the Social Security Act is amended by striking out "plus one-half of the remainder thereof, and (ii)" and inserting in lieu thereof the following: "(ii) an amount equal to 20 percent of such individual's gross earned income for the period involved, representing expenses attributable to the earning of such income, (iii) such additional amounts of earned income of such individual, if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, (iv) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (v)".

(b) Section 1612(b)(4)(A) of such Act is amended by striking out "plus one-half of the remainder thereof," in clause (i), and by striking out "and (iii)" and inserting in lieu thereof the following: "(iii) such additional amounts of earned income of such individual, if such individual's blindness results in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services which are necessary for that purpose, whether or not such services are also needed to enable him to carryout his normal daily functions, (iv) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, (v) such additional amounts of earned income of such individual, if such individual's blindness results in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of medical devices, equipment, prosthesis, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, and (vi)".

(c) The amendments made by this section shall apply with respect to expenses incurred on and after July 1, 1980.

EXTENSION OF TRIAL WORK PERIOD; PRESUMPTIVE DISABILITY

SEC. 4. (a)(1)(A) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall nonetheless be considered to be disabled through the end of the month preceding the month in which such individual's disability ceases or, if later (and subject to section 1611(e)(4)), the fifteenth month following the end of such individual's trial work period.".

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month after the third month in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).".

(b) Section 1614(a)(3) of such Act (as amended by subsection (a)(1)(A) of this section) is further amended by adding at the end thereof the following new subparagraph:

"(G) An individual applying for benefits under this title as a disabled individual (or

as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the four years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this paragraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.".

(c) The amendments made by this section shall be effective July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

RESEARCH AND DEMONSTRATION PROJECTS PERTAINING TO SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 5. Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "Sec. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616) or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.".

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 6. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall be effective July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child age 18 or over who receives a supplemental security income benefit for June 1980, during any period for which such benefit would be greater without the application of such amendment.

FEDERAL REVIEW OF STATE AGENCY DISABILITY ALLOWANCES

SEC. 7. Notwithstanding any other provision of law, any requirement under section 221 of the Social Security Act that the Secretary of Health, Education, and Welfare review specific percentages of all determinations of disability made by State agencies pursuant to that section shall not be applicable to determinations made for purposes of the supplemental security income program.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 8. (a) Section 1631(c)(1) of the Social Security Act is amended by inserting after the first sentence the following new sentences: "Any such decision by the Secretary shall contain a statement of the case setting forth (A) a citation and discussion of the pertinent law and regulation, (B) a list of evidence of record and a summary of the evidence, and (C) the Secretary's determination and the reason or reasons upon which it is based. The statement of the case shall not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant shall be informed of its existence, and it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.".

(b) The amendment made by subsection (a) shall apply with respect to decisions made on and after July 1, 1980.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 9. (a) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment on which the individual's eligibility for such benefit is based has or may have ceased if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(b) The amendment made by subsection (a) shall be effective July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 2, line 16, strike out "clauses (ii) and (iii)" and insert in lieu thereof "clause (iii)".

Page 2, line 22, strike out "clauses (ii) and (iii)" and insert in lieu thereof "clause (iii)".

Page 3, line 8, strike out "(AND FOR THE BLIND)".

Page 4, strike out lines 3 through 25.

Page 5, line 1, strike out "(c) The amendments made by this section" and insert in lieu thereof "(b) The amendment made by subsection (a)".

Page 10, line 8, after "child" insert "age 18 or over".

Page 10, strike out lines 13 through 21.

Page 10 line 24, strike out "Sec. 8." and insert in lieu thereof "Sec. 7.".

Page 11, strike out the sentence beginning in line 6.

Page 11, line 18, strike out "Sec. 9." and insert in lieu thereof "Sec. 8.".

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, printed in the RECORD, and that they be considered en bloc. These are all technical amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONABLE. Mr. Chairman, the minority has no opposition to these amendments.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3464) to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program, and for other purposes, pursuant to House Resolution 259, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 3, not voting 57, as follows:

[Roll No. 183]

YEAS—374

Abdnor	Coleman	Gonzalez
Addabbo	Collins, Ill.	Goodling
Akaka	Conable	Gore
Alexander	Conte	Gradison
Ambro	Corcoran	Gramm
Anderson, Calif.	Corman	Grassley
	Cotter	Gray
Andrews, N.C.	Courter	Green
Andrews, N. Dak.	Crane, Philip	Grisham
	D'Amours	Guarini
Annunzio	Daniel, Dan	Gudger
Anthony	Daniel, R. W.	Guyer
Applegate	Danielson	Hagedorn
Archer	Dannemeyer	Hall, Ohio
Ashbrook	Daschle	Hall, Tex.
Ashley	Davis, Mich.	Hamilton
Aspin	Davis, S.C.	Hance
Atkinson	de la Garza	Hanley
AuCoin	Deckard	Hansen
Badham	Deilums	Harkin
Bafalis	Derrick	Harris
Bailey	Derwinski	Harsha
Baldus	Devine	Heckler
Barnard	Dicks	Hefner
Barnes	Diggs	Heftel
Bauman	Dingell	Hightower
Beard, R.I.	Donnelly	Hinson
Beard, Tenn.	Dornan	Holland
Bedell	Dougherty	Hollenbeck
Benjamin	Downey	Holt
Bennett	Drinan	Hopkins
Bereuter	Duncan, Oreg.	Horton
Bethune	Duncan, Tenn.	Howard
Bevill	Early	Hubbard
Biaggi	Eckhardt	Huckaby
Bingham	Edgar	Hughes
Blanchard	Edwards, Ala.	Hutto
Boggs	Edwards, Calif.	Hyde
Boland	Emery	Ichord
Bolling	English	Ireland
Boner	Erdahl	Jacobs
Bonior	Erlenborn	Jeffords
Bonker	Ertel	Jeffries
Bowen	Evans, Del.	Jenkins
Brinkley	Evans, Ga.	Jenrette
Brodhead	Fary	Johnson, Colo.
Brooks	Fazio	Jones, N.C.
Broomfield	Fenwick	Jones, Tenn.
Brown, Ohio	Ferraro	Kastenmeier
Broyhill	Findley	Kazen
Buchanan	Fisher	Kelly
Burgener	Fithian	Kildee
Burlison	Flippo	Kindness
Burton, Phillip	Foley	Kogovsek
Byron	Ford, Mich.	Kostmayer
Campbell	Ford, Tenn.	Kramer
Carney	Fountain	LaFalce
Carr	Fowler	Lagomarsino
Carter	Frenzel	Latta
Cavanaugh	Frost	Leach, Iowa
Chappell	Garcia	Leach, La.
Cheney	Gaydos	Leath, Tex.
Chisholm	Gephardt	Lederer
Clausen	Gibbons	Lee
Cleveland	Gingrich	Lehman
Clinger	Ginn	Leland
Coelho	Glickman	Lent
Levitas	Panetta	Solomon
Lewis	Pashayan	Spence
Livingston	Patten	St Germain
Lloyd	Patterson	Stack
Loeffler	Paul	Staggers
Long, La.	Pease	Stangeland
Lott	Pepper	Stanton
Lowry	Perkins	Stark
Lujan	Petri	Steed
Luken	Peyser	Stenholm
Lundine	Preyer	Stewart
Lungren	Price	Stockman
McCloskey	Pritchard	Stokes
McCormack	Pursell	Stratton
McDade	Quayle	Studds
McEwen	Quillen	Stump
McHugh	Rahall	Swift
McKay	Railsback	Symms
McKinney	Rangel	Synar
Madigan	Ratchford	Tauke
Maguire	Regula	Taylor
Markey	Reuss	Thomas
Marks	Rhodes	Thompson
Marriott	Richmond	Traxler
Mathis	Rinaldo	Treen
Matsui	Ritter	Trible
Mattox	Roberts	Udall
Mavroules	Robinson	Ullman
Mazzoli	Rodino	Vander Jagt
Mica	Rosenthal	Vanik
Michel	Rostenkowski	Vento
Mikulski	Roth	Volkmer
Mikva	Rousselot	Walgren
Miller, Calif.	Roybal	Walker
Miller, Ohio	Royer	Wampler
Minish	Rudd	Watkins
Mitchell, N.Y.	Runnels	Waxman
Moakley	Russo	Weaver
Moffett	Sabo	Weiss
Mollohan	Satterfield	White
Montgomery	Sawyer	Whitehurst
Moore	Schroeder	Whitley
Moorhead, Calif.	Schulze	Whittaker
	Sebelius	Whitten
Moorhead, Pa.	Seiberling	Williams, Mont.
Mottl	Sensenbrenner	Williams, Ohio
Murphy, Ill.	Shannon	Wilson, Bob
Murphy, Pa.	Sharp	Winn
Murtha	Shelby	Wirth
Myers, Pa.	Shumway	Wolff
Natcher	Shuster	Wolpe
Neal	Simon	Wright
Nedzi	Skelton	Wylie
Nelson	Slack	Yates
Nichols	Smith, Iowa	Yatron
Nowak	Smith, Nebr.	Young, Alaska
Oakar	Snowe	Zablocki
Oberstar	Snyder	Zeferetti
Obey	Solarz	

NAYS—3

Collins, Tex.	Crane, Daniel	Pickle

NOT VOTING—57

Albosta	Florio	Mitchell, Md.
Anderson, Ill.	Forsythe	Murphy, N.Y.
Beilenson	Fuqua	Myers, Ind.
Bouquard	Gialmo	Nolan
Brademas	Gilman	O'Brien
Breaux	Goldwater	Ottinger
Brown, Calif.	Hammer-schmidt	Roe
Burton, John		Rose
Butler	Hawkins	Santini
Clay	Hillis	Scheuer
Conyers	Holtzman	Spellman
Coughlin	Johnson, Calif.	Van Deerlin
Dickinson	Jones, Okla.	Wilson, C. H.
Dixon	Kemp	Wilson, Tex.
Dodd	Long, Md.	Wyatt
Edwards, Okla.	McClory	Wydler
Evans, Ind.	McDonald	Young, Fla.
Fascell	Marlenee	Young, Mo.
Fish	Martin	
Flood	Mineta	

□ 1030

The Clerk announced the following pairs:

Mr. Fuqua with Mr. McDonald.

Mr. Mineta with Mr. Forsythe.

Mr. Rose with Mr. O'Brien.

Mr. Mitchell of Maryland with Mr. Wyatt.

Mr. Brademas with Mr. McClory.

Mr. Dodd with Mr. Martin.

Mrs. Spellman with Mr. Hillis.

Mr. Santini with Mr. Hammerschmidt.

Mr. Murphy of New York with Mr. Gilman.

Mr. Florio with Mr. Goldwater.

Mrs. Bouquard with Mr. Anderson of Illinois.

Mr. Evans of Indiana with Mr. Butler.

Mr. Fascell with Mr. Coughlin.

Mr. Van Deerlin with Mr. Dickinson.

Mr. Charles H. Wilson of California with Mr. Wydler.

Mr. Gialmo with Mr. Young of Florida.

Mr. Breaux with Mr. Kemp.

Mr. John L. Burton with Mr. Clay.

Mr. Johnson of California with Mr. Conyers.

Mr. Ottinger with Mr. Flood.

Mr. Albosta with Mr. Jones of Oklahoma.

Mr. Hawkins with Mr. Marlenee.

Mr. Roe with Mr. Long of Maryland.

Mr. Young of Missouri with Mr. Charles Wilson of Texas.

Mr. Nolan with Mr. Scheuer.

Mr. Brown of California with Mr. Myers of Indiana.

Mr. Dixon with Mr. Edwards of Oklahoma.

Mr. Beilenson with Ms. Holtzman.

Mr. HAGEDORN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1040

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, there is much good in H.R. 3464, much that should be approved by this body. This legislation contains many sections which will be of inestimable value to a disabled welfare recipient trying to get back into the work force. The bill would allow deductions for work expenses a handicapped person might face that would not be faced by the average worker—expenses such as wheel chairs and special work aids or medicines to control disabling conditions. This is a good provision and parallels a similar provision in H.R. 3236, the Social Security Disability Amendments of 1979. The SSI legislation also includes an extension of the trial work period and a requirement that claimants be given an individual and clear explanation of the decision in their case. These, too, are sound provisions which parallel similar provisions in the proposed social security legislation. I commend the committee for its work in this area and for keeping these two programs, which often serve people simultaneously, in coordination with each other.

However, there is one area where this bill has gone far afield—one provision which is basically and intrinsically wrong and which will put the social security disability and the welfare disability programs at odds with each other.

While including sections which will help a disabled welfare recipient to move back into the work force, this bill also makes it almost impossible for that person ever to get off the welfare rolls.

H.R. 3464 would award Federal welfare benefits to persons who supposedly cannot work at all but who actually have a wage level that exceeds the Federal minimum wage, and that in some cases could exceed $10,000 per year. The bill in essence changes the supplemental se-

curity income disability program to a partial disability program, and in so doing, it will have significant and unwelcome effects on the social security disability program.

Let me explain how this happens. Under the Corman legislation a single welfare recipient will be able to earn up to $479 a month—based on a Federal nonsupplemented SSI benefit of $207 per month—and still be eligible for welfare and all its attendant programs—while also still being classified as totally disabled and unable to work. In the case of a married person, the allowable earnings increase to $686 a month. This, again, means a totally disabled welfare recipient who supposedly cannot work at all, will be abe to earn $686 a month and still qualify for welfare.

I am not at all sure this country is really prepared to pay SSI benefits originally intended for the totally disabled to persons who earn $500 or more a month.

But that is not all: If this same welfare recipient has extraordinary work expenses such as a wheelchair, then he or she can earn even beyond those figures.

I do not object to this very liberal allowance for work expenses if we are dealing with a program for the totally disabled. But in the context of a partial disability program such as this bill envisions. I think we should be very cautious and very careful about what we are doing.

Not only is this provision dangerous in itself, it has a bad effect on the social security program.

Let me explain.

The first effect is cost. This unwarranted liberalization of welfare benefits will cost social security taxpayers $211 million in the first 5 years, moving on up to $2 billion annually by the year 2000.

Second, this change will place these two programs in complete disparity with each other as far as the definition of disability is concerned, even though they are still governed by the same terminology. Both the social security and the supplemental security income disability programs were established to pay benefits to those who are totally disabled and cannot work. I emphasize the words "totally" disabled and "cannot" work. The definition of disability that is used for both programs in fact states that to be considered disabled, a person must be unable "to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment."

The dollar amount of earnings set by the Social Security Administration to define "substantial gainful activity" is currently $280 per month. This test is used to tell whether someone is actually unable to work to any significant degree because of their impairment.

H.R. 3464, however, would raise this amount for SSI recipients far above what is available under the social security program: to $479 for a single person and $686 for a married couple. Meanwhile, the social security recipient is still "not disabled" at the $280 level.

This change amounts to transforming the SSI program into a partial disability program—but leaves the social security program as a total disability benefit—all while the public assumes the same ground rules apply to both.

H.R. 3464 includes good provisions. The deduction of extraordinary work expenses, extension of the trial work period, new research and demonstration authority, and more explicit reports to claimants on the reasons for decisions made all parallel provisions in the social security disability amendments, H.R. 3236. These provisions grow out of extensive research by the Social Security Subcommittee over the past several years and I am glad to see them included in this bill. However, the change in the allowed earnings is both unwise and is an uncertain gamble. Our bill includes provisions for research to be done in this field to see if raising the SGA level really does help disabled people move back into the work force. H.R. 3464 assumes as a certainty something for which there is very little research or information. We should not take this step now.

It is with reluctance—but with firm conviction, therefore, that I must vote against this bill. I think it is unwise, not fair, and not right to place social security and SSI disabled persons under the same ground rules, but allow the welfare person to earn twice as much money.

PERSONAL EXPLANATION

Mr. BUTLER. Mr. Speaker, I was unavoidably detained when the vote was taken on the bill, H.R. 3464, SSI Disability Amendments of 1979. Had I been present and not had the benefit of the advice of the gentleman from Texas (Mr. PICKLE), I would have voted in the affirmative on that bill.

Calendar No. 438

96TH CONGRESS, 1st Session } SENATE { REPORT No. 96-408

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

REPORT

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ON

H.R. 3236, A BILL TO AMEND TITLE II OF THE SOCIAL SECURITY ACT TO PROVIDE BETTER WORK INCENTIVES AND IMPROVE ACCOUNTABILITY IN THE DISABILITY INSURANCE PROGRAMS, AND FOR OTHER PURPOSES

NOVEMBER 8 (legislative day, NOVEMBER 5), 1979.—Ordered to be printed

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Calendar No. 438

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96-408

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

NOVEMBER 8 (legislative day, NOVEMBER 5), 1979.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 3236]

The Committee on Finance, to which was referred the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improve accountability in the disability insurance programs, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

I. Summary

DISABILITY INSURANCE

Present benefit structure.—Social security disability insurance benefits are based on an individual's previous earnings. The formula for determining benefit amounts is the same for disability benefits as for social security retirement benefits. The benefit level is arrived at by applying a formula to the average earnings the individual had over a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by five. The basic benefit amount may be increased if the worker has a dependent spouse or children. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

Limit on family benefits.—A provision of the House bill (H.R. 3236) would limit total DI family benefits to an amount equal to the smaller of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). (AIME is the basis used under present law for determining benefit amounts.) The committee bill would limit total DI family benefits to an amount equal to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. Under the provision no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals who first become entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978.

The Secretary would be required to report to the Congress by January 1, 1985 on the effect of the limitation on benefits and of other provisions of the bill.

Reduction in dropout years.—Under current law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes. The committee bill includes a provision, which would apply to all disabled workers who first become entitled after 1979, that would exclude years of low earnings (or no earnings) in the computation of benefits according to the following schedule:

Worker's age:	*Number of dropout years*
Under 32	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The provision would become effective in January 1980.

Medicare waiting period.—At the present time DI beneficiaries must wait 24 months after becoming entitled to benefits to become eligible for medicare. If a beneficiary returns to work and then becomes disabled again, another 24-month waiting period is required before medicare coverage is resumed. The committee bill eliminates the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. The amendment would apply to workers becoming disabled again within 60 months, and to disabled widows and widowers and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls, but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within those time periods.

Extension of medicare for DI beneficiaries.—Under present law, medicare coverage ceases when an individual loses his disability status. The committee would extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered.

SUPPLEMENTAL SECURITY INCOME

Benefits for SSI recipients who perform substantial gainful activity.—Under present law an individual qualifies for SSI disability payments only if he is "unable to engage in any substantial gainful

activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than 12 months." The Secretary of Health, Education, and Welfare is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in substantial gainful activity is $280 a month. Thus, when an SSI recipient has earnings (following a trial work period) which exceed this amount, he loses eligibility for cash benefits and may also lose eligibility for medicaid and social services.

The committee bill includes an amendment which provides that a disabled individual who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the cash benefits to be reduced to zero ($481 at the present time), the special benefit status would be terminated for purposes of eligibility for medicaid and social services, unless the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision authorizing continuation of medicaid and social services after a finding by the Secretary would also apply to the blind. The committee provision would be limited to three years to give the committee the opportunity to review the effectiveness of the provision. The committee provision also requires the Social Security Administration to provide for separate accounting of any funds spent under the provision. This will enable both the Administration and the committee to evaluate the magnitude and the effect of the provision. Separate identification of these benefits would also serve to emphasize the intent that the provision not be administered as a change in the overall definition of disability.

Employment in sheltered workshops.—Under present law, earnings from employment in a sheltered workshop that is part of an active rehabilitation program are not considered earned income for purposes of determining the payment under SSI. The committee bill provides that earnings received in sheltered workshops and work activities centers would be considered as earned income, rather than unearned income, for purposes of determining SSI benefits. This would assure that individuals with earnings from these kinds of activities would have the advantage of the earned income disregards provided in law for earnings from regular employment.

Deeming of parents' income to disabled or blind children.—Present law requires that the parents' income and resources be deemed to a blind or disabled child in determining the child's eligibility for SSI.

The term "child" is defined to include individuals under 18, or 22 in the case of an individual who is in school or in a training program. The committee bill provides that for purposes of SSI eligibility determination, the "deeming" of parents' income and resources would be limited to disabled or blind children under 18 regardless of student status. Those individuals who on the effective date of the provision are age 18 and over are receiving benefits at that time and would be protected against loss of benefits due to this change.

PROVISIONS RELATING TO THE TITLE II AND TITLE XVI DISABILITY PROGRAMS

Termination of benefits for persons in vocational rehabilitation programs.—Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled in a vocational rehabilitation program. The committee bill provides that disability benefits would not be terminated due to medical recovery if the beneficiary is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the beneficiary may be permanently removed from the disability rolls.

Deduction of impairment-related work expenses.—The committee bill includes a provision to permit the deduction of costs of impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity. This deduction would be made both in the case where the individual pays the costs himself, and where the cost is paid by a third party. The Secretary of HEW would be given authority to specify in regulations the type of care, services, and items that may be considered necessary to enable a disabled person to engage in SGA, and the amount of earnings to be excluded subject to such reasonable limits based on actual, prevailing costs as the Secretary would prescribe.

Reentitlement to benefits.—Under present law, when an individual completes a 9-month trial work period and continues to perform substantial gainful activity, his benefits are terminated. If he later becomes unable to work, the individual must reapply for benefits and go through the adjudication process again. The committee bill provides that for purposes of the DI and SSI programs the present 9-month trial work period would be extended to 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails. The bill also provides that the same trial work period would be applicable to disabled widow(er)s. (Under present law, when the 9-month trial work period is completed, three additional months of benefits are provided. The committee provision would not alter this aspect of present law.)

Administration by State agencies.—Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. The committee bill would require that disability determinations be made

by State agencies according to regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function "in order to assure effective and uniform administration of the disability insurance program throughout the United States."

The committee bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the provision allows for termination by the State. The State is required to continue to make disability determinations for 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Federal review of State agency determinations.—Under current administrative procedures of the Social Security Administration, approximately 5 percent of disability claims approved by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. The committee amendment would have the effect, over time, of reinstituting a review procedure used by SSA until 1972 under which most State disability allowances were reviewed prior to the payment of benefits. The committee bill provides for preadjudicative Federal review of at least 15 percent of allowances and denials in fiscal year 1981, 35 percent in 1982, and 65 percent in years thereafter.

Periodic review of disability determinations.—Under current administrative procedures, a disability beneficiary's continued eligibility for benefits is reexamined only under a limited number of circumstances. The committee bill would require that unless there has been a finding that an individual's disability is permanent, there would have to be a review of the case at least once every 3 years to determine continuing eligibility. The Social Security Administration would continue to be authorized to review the eligibility of permanently disabled individuals.

Other administrative changes.—The committee bill includes a number of other provisions intended to strengthen administrative practices particularly in regard to the handling of initial claims and cases denied which are under appeal. These provisions would:

1. Require that notices of disability denial be provided to claimants expressed in language understandable to the claimant, which include a discussion of the evidence of record and the reasons why the disability claim is denied.

2. Authorize the Secretary to pay all non-Federal providers for costs of supplying medical evidence of record in title II claims as is done in title XVI (SSI) claims.

3. Provide permanent authority for payment of the travel expenses of claimants (and their representatives in the case of reconsiderations and ALJ hearings) resulting from participation in various phases of the adjudication process.

4. Eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the

court to the Secretary upon motion by the Secretary. Instead, remand would be discretionary with the court, and only on motions by the Secretary where "good cause" was shown.

5. Continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but add the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

6. Modify present law with respect to court review to provide that the Secretary's determinations with respect to facts would be final unless found to be arbitrary and capricious.

7. Foreclose the introduction of new evidence with respect to an application after the decision is made at the administrative law judge hearing level. At the present time new evidence may be introduced until all levels of administrative review have been exhausted (through the Appeals Council).

8. Require the Secretary to submit a report to Congress by July 1, 1980, recommending appropriate case processing time limits for the various levels of adjudication.

AID TO FAMILIES WITH DEPENDENT CHILDREN AND CHILD SUPPORT PROGRAMS

AFDC work requirement.—Under present law, recipients of AFDC are required to register for manpower training and employment services under the work incentive (WIN) program, unless they are statutorily exempt. Individuals who participate in the WIN program also receive supportive services, including child care, if these services are necessary to enable them to participate. Under the committee amendment AFDC recipients who are not exempt from registration by law would be required, as a condition of continuing eligibility for AFDC, to register for, and participate in, employment search activities, as a part of the WIN program. The amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment, and for a period thereafter, as are necessary and reasonable to enable him to retain employment. In addition, it would allow States to match the Federal share for social and supportive services with inkind goods and services, instead of being required to make only a cash contribution. The amendment would provide for locating manpower and supportive services together to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be terminated, and authorize the Secretaries of Labor and Health, Education, and Welfare to establish the period of time during which an individual will continue to be ineligible for assistance in the case of a refusal without good cause to participate in a WIN program. The amendment would also clarify the treatment of earned income derived from public service employment.

Matching for AFDC antifraud activities.—Under present law, Federal matching for AFDC administrative costs, including antifraud activities, is limited to 50 percent. The committee amendment would increase the matching rate to 75 percent for State and local

antifraud activities for costs incurred (1) by the welfare agencies in the establishment and operation of one or more identifiable fraud control units; (2) by attorneys employed by the State or local welfare agencies (but only for the costs identifiable as AFDC antifraud activities); and (3) by attorneys retained under contract (such as the office of the State attorney).

Use of IRS to collect child support for non-AFDC families.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the State has made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health, Education, and Welfare, or his designee. The committee amendment would extend IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

Safeguarding information.—Present law provides in part that State plans under title IV-A (AFDC) include safeguards which prevent disclosure of the name or address of AFDC applicants or recipients to any committee or a legislative body. HEW regulations include Federal, State, or local committees or legislative bodies under this provision. Under their guidelines, HEW exempts audit committees from this exclusion. Several States, however, do not honor the HEW exemption. The committee bill would modify this section of the act to clarify that any governmental agency (including any legislative body or component or instrumentality thereof) authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. The amendment would make similar changes with regard to audits under title XX of the Social Security Act.

Federal matching for child support duties performed by court personnel.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. Federal regulations are now written in such a way as to allow States to claim Federal matching for the compensation of district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for or in connection with judges or other court officials making judicial decisions, and other supportive and administrative personnel.

The committee bill would allow Federal matching for these administrative expenses of the IV-D program. Matching would cover expenditures (including compensation) for judges or other persons making judicial determinations, and other support and administrative personnel of the courts who perform IV-D functions, but only for those functions specifically identifiable as IV-D functions. Current levels of spending in the State for these newly matched activities would have to be maintained. No matching would be available for expenditures incurred before January 1, 1980.

Child support management information system.—Under present law States and localities that wish to establish and use computerized information systems in the management of their child support programs receive 75 percent Federal matching of their expenditures. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the systems. The cost of operating such systems would continue at the 75 percent matching rate. Under the amendment, the Office of Child Support Enforcement would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. Continuing review of the State systems would also be required.

AFDC management information system.—States may currently receive 50 percent Federal matching for the cost of computerized management information systems as an element of AFDC administrative costs. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the computer information systems and to 75 percent for their operation, provided the system meets the requirements imposed by the amendment. Under the amendment, the Department of Health, Education, and Welfare would be required to provide technical assistance to the States and to approve the State system as a condition of Federal matching. (Continuing technical assistance and review of the State systems would also be required.) In approving systems, the Department would have to assure compatibility among the other public assistance, medicaid, and social service systems in the States and among the AFDC systems of different jurisdictions.

Child support reporting and matching procedures.—Present law requires that the Federal Office of Child Support Enforcement (1) maintain adequate records (for both AFDC and non-AFDC families) of all amounts collected and disbursed, and of the costs of collection and disbursement, and (2) publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. Present law also provides that the States will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate reporting system is required.

The committee amendment would prohibit advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. The amendment would also allow the Department of Health, Education, and Welfare to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Access to wage information for child support program.—Under title IV–D of the Social Security Act, States are required to have separate child support agencies to establish paternity and obtain support for any child who is an applicant for or recipient of AFDC. These State agencies must also provide child support services to non-AFDC families if they apply for child support services. HEW regulations require

the State agencies to establish and to periodically review the amount of the support obligation, using the statutes and legal processes of the State.

The committee amendment would provide authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies for purposes of the child support program. The Labor Department and the Department of HEW would be authorized to establish necessary safeguards against improper disclosure of the information.

OTHER PROVISIONS AMENDING THE SOCIAL SECURITY ACT

Relationship between social security and SSI benefits.—A substantial proportion of SSI recipients are also eligible for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act. Though the two programs are administered by the same agency, it can sometimes happen that an individual's first check under one program will be delayed. If the SSI check is delayed, retroactive entitlement takes into account the amount of income the individual had from social security. However, if the title II check is delayed, a windfall to the individual can occur since it is not possible to retroactively reduce his SSI benefits beyond the beginning of the current quarter. The committee amendment provides that an individual's entitlement under the two titles shall be considered as a totality so that if payment under title II is delayed and therefore results in a higher payment under title XVI, the adjustment made in the case of any individual would be the net difference in total payment. There would be proper accounting adjustments to assure that the appropriate amounts were charged to the general fund and the trust funds respectively. Any appropriate reimbursements would also be made to the States where State supplementary benefits are involved.

Extension of term of the National Commission on Social Security.—The committee bill would extend for three months the expiration date of the National Commission on Social Security and the terms of its members. Under the committee provision, the Commission's work and the terms of its members would end on April 1, 1981.

Frequency of FICA deposits from State and local governments.—Under current regulations, State and local governments are required to deposit their FICA taxes 45 days after the end of each calendar quarter. Regulations recently promulgated would increase the frequency of the deposits to a monthly schedule beginning in July 1980. These regulations require that FICA deposits for the first 2 months in a calendar quarter be due 15 days after the end of each month, and that deposits for the third month of the calendar quarter be due 45 days after the end of that month. These regulations were issued in final form on November 20, 1978, and by law cannot become effective until at least 18 months have passed from the date of final publication. The committee bill includes a provision requiring that FICA deposits from State and local governments be due 30 days after the end of each month. The provision would be effective beginning July 1980.

Aliens under SSI.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise

permanently residing in the United States "under color of law". The latter category refers primarily to refugees who enter as conditional entrants or parolees. An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported. However, such assurances are not legally binding on the sponsor of the alien. Under present law, an alien is required to be in the United States for only 30 days before becoming eligible for SSI. The committee amendment would require an alien to reside in the United States for 3 years before he would be eligible for SSI.

Demonstration authority to provide services to the terminally ill.—The committee bill authorizes the Social Security Administration to participate in a demonstration project which has as its purpose to determine how best to provide services needed by persons who are terminally ill. The committee provision authorizes up to $2 million a year to be used by the Social Security Administration for this purpose.

Demonstration projects.—Under present law, the Secretary of Health, Education, and Welfare has no authority to waive requirements under titles II, XVI, and XVIII to conduct experimental or demonstration projects. The committee bill would authorize the waiver of certain benefit requirements of titles II and XVIII (medicare) to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries, with a report to Congress required by January 1, 1983. The bill would also provide demonstration authority to cover other areas of the DI program beyond the purpose of stimulating a return to work (for example, the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation).

In addition, the Secretary would be authorized to conduct experimental, pilot, or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program.

The committee bill would authorize the Secretary to waive certain requirements of the human experimentation statute, but would require that the Secretary in reviewing any application for any experimental, pilot, or demonstration project pursuant to the Social Security Act must take into consideration the human experimentation law and regulations in making his decision on whether to approve the application. The committee does not intend that this provision modify the requirements of the human experimentation statute as they apply to direct medical experimentation with actual diagnosis or treatment of patients.

Social security tax status of employee social security taxes paid by employers.—In general, employers are required to pay an *employer* social security tax on the wages they pay their employees and to withhold from those wages an equal *employee* social security tax. As an alternative to this procedure, however, present law allows employers to assume responsibility for both the employer and employee taxes instead of withholding the employee's share from his wages. Under

this alternative procedure, the payment by the employer of the employee's social security tax represents, in effect, an additional amount of compensation. However, existing law specifically exempts that amount of additional compensation from social security taxes. The net effect is that for a given level of total compensation, somewhat lower social security taxes would be payable if the employer pays the employee social security tax instead of withholding it from the employee's wages. Because of the level of social security taxes now in effect, this procedure could significantly lower social security trust fund receipts if the practice became widespread. The committee amendment would include the amount of any employer payment of the employee share of social security taxes in the employee's taxable income for purposes of social security taxation. The amendment would not apply to situations in which the employee share of social security taxes are paid by an employer for an individual who is employed as a domestic.

II. General Discussion of the Bill

A. Social Security Disability Programs

Introduction and Legislative History

The Social Security Administration is charged with the administration of two national disability programs: the disability insurance program (DI) and the supplemental security income program (SSI). The disability insurance program provides benefits in amounts related to a disabled worker's former wage levels in covered employment. Funding is provided through the social security payroll tax, a portion of which is allocated to a separate disability insurance trust fund. The SSI program provides cash assistance benefits to the needy blind and disabled, many of whom do not have recent attachment to the labor force. The benefit amount is based on the amount of other income available to the individual. Unlike DI benefits, the SSI benefits are funded through appropriations from general revenues.

Disability insurance.—The disability insurance (DI) program established by title II of the Social Security Act provides monthly benefits averaging $320 to some 2.9 million disabled workers. Benefits are also payable under the program to approximately 2 million dependent spouses and children of these disabled workers. For a disabled-worker *family*, monthly benefits average $639. The maximum benefit which could be paid to a worker who becomes disabled in 1979 is $552 for a disabled worker alone or $967 for a disabled worker family.

Although the original Social Security Act of 1935 did not include provision for a disability insurance program, there was early concern with the problem of loss of earnings due to disability. In the 1940's the Social Security Board in its annual reports generally supported the addition of some kind of disability program to the social security system.

The Congress had various proposals for a disability program under its active consideration in the next few years. Finally, in the Social Security Amendments of 1954, the Congress included a provision for a disability "freeze" which would allow disabled workers to protect their ultimate retirement benefits against the effects of non-earning years, becoming effective in July 1955. The amendments

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provided that the determination of who was disabled would be made by State agencies under contract with the Federal Government. It was expected that the agency used would ordinarily be the State vocational rehabilitation agency.

The 1956 amendments established the Disability Insurance Trust Fund and provided for the payment of benefits to disabled workers (but not to their dependents) starting in July 1957. Benefits were limited to workers age 50 or over who had recent and substantial attachment to the social security program. The disability had to be severe enough to prevent the individual from engaging in any substantial employment and to be of "long-continued and indefinite duration." For eligible individuals, benefits were payable after a full 6-month waiting period. (If an individual became disabled on January 15, the waiting period would be February through July. The first check, for the month of August, would be payable at the beginning of September.)

The disability benefit formula was essentially the same as the formula for retirement benefits, under which the benefit amount is determined according to the worker's lifetime average earnings (excluding in this case years of disability in computing the average). Since the benefits were at this time limited to workers age 50 or over, their general wage histories could be expected to be comparable to retired workers. For this reason, there was no compelling reason to develop a new method of determining benefits.

The 1956 amendments also provided for the payment of benefits to disabled children age 18 and over who were dependents of retired workers or survivors of deceased workers (provided that the disability began before the child reached age 18).

The Secretary of Health, Education, and Welfare was given the authority to reverse cases that had been *allowed* by the State agencies which made the original determinations. The basic purpose of this provision was to protect the trust fund from being forced to pay benefits in cases that should not have been allowed in the first instance, and to promote more uniform administration of the program among the States.

Subsequent amendments added provisions for benefits to dependent spouses and children of disabled workers (1958) and eased the requirements related to prior work under social security (1958 and 1960). Also in 1960, the limitation of benefits to workers age 50 or over was eliminated. The lowering of the age of eligibility had a significant impact on how the benefit computation formula operated. Since benefits are based on lifetime average earnings (excluding years of disability), benefits for workers who became disabled at a young age would be based on a very small number of years of earnings (as few as 2). This can lead to quite different results from the situation of a retired worker whose earnings are averaged over a relatively large number of years. However, no change in the disability benefit formula was made.

Certain provisions in the 1960 amendments were aimed at encouraging beneficiaries to return to employment. They provided for a nine-month period of "trial work," during which the disabled individual could have earnings without having his benefits terminated. They also

eliminated the 6-month waiting period for benefits if a worker applied for disability a second time after failing in his attempt to return to work.

In 1965, the definition requiring that a disability be of "long-continued and indefinite duration" was changed to permit benefits for disabilities expected to last at least 12 months. Benefits for disabled widows and disabled dependent widowers age 50 and over were added in 1967. In 1972, the 6-month waiting period (established in 1956) was reduced to 5 months.

As the program grew, the Congress began expressing considerable concern over the increased allocations to the disability trust fund which had been required to meet actuarial deficiencies. The Finance Committee, in its report on the 1967 Social Security Amendments, commented:

> The committee recognizes and shares the concern expressed by the Committee on Ways and Means regarding the way this disability definition has been interpreted by the courts and the effects their interpretations have had and might have in the future on the administration of the disability program by the Social Security Administration. * * * The studies of the Committee on Ways and Means indicate that over the past few years the rising cost of the disability insurance program is related, along with other factors, to the way in which the definition of disability has been interpreted. The committee therefore includes in its bill more precise guidelines that are to be used in determining the degree of disability which must exist in order to qualify for disability insurance benefits.

The 1967 amendments were intended to emphasize the role of medical factors in the determination of disability. Since the beginning of the program, the Social Security Administration had been operating under guidelines that allowed consideration of certain vocational factors. However, these were being interpreted in varying ways, and there was believed to be a need to write into the law additional language which would define vocational factors in such a way that they could be interpreted and applied on a more uniform basis. The new language specified that an individual could be determined to be disabled only if his impairments were of such severity that he "is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists 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."

The committee report discussed this provision further:

> The original provision was designed to provide disability insurance benefits to workers who are so severely disabled that they are unable to engage in any substantial gainful activity. The bill would provide that such an individual would be disabled only if it is shown that he has a severe medically determinable physical or mental impairment or impairments; that

> if, despite his impairment or impairments, an individual still can do his previous work, he is not under a disability; and that if, considering the severity of his impairment together with his age, education, and experience, he has the ability to engage in some other type of substantial gainful work that exists in the national economy even though he can no longer do his previous work, he also is not under a disability regardless of whether or not such work exists in the general area in which he lives or whether he would be hired to do such work. It is not intended, however, that a type of job which exists only in very limited numbers or in relatively few geographic locations would be considered as existing in the national economy. While such factors as whether the work he could do exists in his local area, or whether there are job openings, or whether he would or would not actually be hired may be pertinent in relation to other forms of protection, they may not be used as a basis for finding an individual to be disabled under this definition. It is, and has been, the intent of the statute to provide a definition of disability which can be applied with uniformity and consistency throughout the Nation, without regard to where a particular individual may reside, to local hiring practices or employer preferences, or to the state of the local or national economy.

In the case of blind individuals, several amendments were adopted over the years which eased certain requirements of the disability program. The level of earnings above which an individual is considered not disabled is substantially higher for blind persons than for those with other disabilities. No recency of employment test is applied in determining eligibility for the blind. For blind persons age 55 or over, eligibility is based on their ability to perform work requiring skills and abilities comparable to those used in their usual work rather than on their ability to work at any job.

Supplemental security income.—The Social Security Act as originally written in 1935 did not provide for disability protection under either the insurance (trust fund) title or under the public assistance titles. (A public assistance program limited to the needy blind was, however, a part of the 1935 act.) In 1950 a public assistance program for the "totally and permanently disabled" was added to the Social Security Act. Under the public assistance programs for the blind and disabled, basic eligibility standards and assistance levels were determined by each State, and program administration was carried out by the States (or by local governments under overall State supervision). State expenditures for the program were funded by the States with Federal matching from general revenue appropriations according to formulas specified in the Federal statute.

In 1972, Congress repealed the public assistance programs for the blind and disabled (along with the similar program for the aged) and established a new federally administered program called supplemental security income (SSI). Under the new program (which became effective at the start of 1974), a basic Federal income support level is established for each aged, blind, and disabled person. Eligibility is determined and benefits are paid by the Social Security Administration.

States may supplement the basic Federal income support levels, and these State supplementary benefits may be administered either by the States or by the Social Security Administration on behalf of the States.

At the present time, the SSI program provides a monthly minimum Federal income support level of $208.20 for a disabled individual and $312.30 for a disabled couple. These amounts are increased automatically for cost of living changes. State supplementation levels vary widely from State to State and within States according to different living arrangements of recipients. (See table 1.)

The disability part of the SSI program follows generally the definition and administrative processes applicable to the disability insurance program. To be eligible, an individual must be sufficiently disabled to permit a finding that he will be unable to engage in any substantial work activity for at least a period of 1 year from the time he became disabled.

TABLE 1.—INCOME GUARANTEE LEVEL FOR DISABLED PERSONS IN INDEPENDENT LIVING ARRANGEMENTS

State (administration of optional supplement)	Monthly income guarantee level	
	Individual	Couple
Alabama (State)	$208.20	$312.30
Alaska (State)	335.00	502.00
Arizona (State)	208.20	312.30
Arkansas (None)	208.20	312.30
California (Federal)	356.00	660.00
Colorado (State)	221.00	442.00
Connecticut (State)	297.00	372.00
Delaware (Federal)	208.20	312.30
District of Columbia (Federal)	223.20	342.30
Florida (State)	208.20	312.30
Georgia (State)	208.20	312.30
Hawaii (Federal)	223.40	336.50
Idaho (State)	262.00	373.00
Illinois (State)	[1] 208.20	[1] 312.30
Indiana (State)	208.20	312.30
Iowa (Federal)	208.20	312.20
Kansas (None)	208.20	312.30
Kentucky (State)	208.20	312.30
Louisiana (None)	208.20	312.30
Maine (Federal)	218.20	327.30
Maryland (State)	208.20	312.30
Massachusetts (Federal)	324.45	494.30
Michigan (Federal)	242.29	363.44
Minnesota (State)	242.00	358.00
Mississippi (None)	208.20	312.30
Missouri (State)	208.20	312.30
Montana (Federal)	208.20	312.30
Nebraska (State)	295.00	406.00
Nevada (Federal)	208.20	312.30
New Hampshire (State)	237.00	332.00
New Jersey (Federal)	231.00	324.00
New Mexico (State)	208.20	312.30
New York (Federal)	271.41	391.78
North Carolina (State)	208.20	312.30
North Dakota (State)	208.20	312.30

TABLE 1.—INCOME GUARANTEE LEVEL FOR DISABLED PERSONS IN INDEPENDENT LIVING ARRANGEMENTS—Continued

State (administration of optional supplement)	Monthly income guarantee level	
	Individual	Couple
Ohio (None)	$208.20	$312.30
Oklahoma (State)	287.20	470.30
Oregon (State)	220.20	322.30
Pennsylvania (Federal)	240.60	361.00
Rhode Island (Federal)	244.99	381.73
South Carolina (State)	208.20	312.30
South Dakota (State)	223.20	327.30
Tennessee (None)	208.20	312.30
Texas (None)	208.20	312.30
Utah (State)	218.20	332.30
Vermont (Federal)	247.00	[2] 384.00
Virginia (State)	208.20	312.30
Washington (Federal)	253.30	[2] 361.40
West Virginia (None)	208.20	312.30
Wisconsin (Federal)	294.40	451.50
Wyoming (State)	228.20	352.30

[1] State supplements in some cases but budgets each case individually regardless of living arrangements.

[2] State has two optional supplementation levels. This represents the higher amount payable to recipients in the State.

Note: "None" indicates no optional State supplementation. Where optional supplementation is indicated but the Federal levels of $208.20 and $312.30 are shown, the State optional supplementation does not apply in the case of individuals or couples in independent living arrangements. Mandatory supplementation may apply for certain individuals who were previously on State programs in effect prior to January 1974. Optional State supplementation may also apply for other living arrangements.

Source: HEW (data as of Oct. 1, 1979).

Development of the Programs

As table 2 shows, the Nation's basic cash disability programs have changed dramatically in the last decade both in benefit cost and in caseload. As can also be seen, there has been a major impact on administrative costs, and on the number of individuals employed by the State disability agencies to make disability determinations. Costs of cash benefits grew from about $3.7 billion in 1970, to nearly $18 billion in 1979.

Nor do these figures tell the whole story. There are also major benefit expenditures for disabled persons under the medicare and medicaid programs. Since July 1, 1973, persons who are entitled to disability benefits under the Social Security Act for at least 24 consecutive months become eligible to apply for medicare part A (hospital insurance) benefits beginning with the 25th month of entitlement and also to enroll in the part B (supplementary medical insurance) program. According to estimates for fiscal year 1979, about 700,000 persons will receive reimbursed services under part A during the year at a cost of $2.4 billion. About 1.7 million persons will receive reimbursed services under part B at a cost of $1.4 billion. With respect to the medicaid program, for which most SSI recipients are automatically eligible, statistics for fiscal year 1976 show that about 2.7 million disabled recipients received $3.5 billion in benefits (about 25 percent of total medicaid payments).

TABLE 2.—SOCIAL SECURITY DISABILITY PROGRAMS

	Beneficiaries (millions) (December each year)		Benefits paid (billions)			State agency program administration	
Fiscal year	Title II	Title XVI	DI trust fund	SSI federally administered	Total	Cost (millions)	Employees (thousands)
1970.....	2.7	[1] 1.0	$2.8	[2] $0.9	$3.7	$48.6	2.6
1971.....	2.9	[1] 1.1	3.4	[2] 1.1	4.5	63.4	3.2
1972.....	3.3	[1] 1.2	4.0	[2] 1.3	5.3	68.2	4.4
1973.....	3.6	[1] 1.4	5.2	[2] 1.5	6.7	80.4	6.3
1974.....	3.9	1.7	6.2	[2] 1.8	8.0	146.8	10.3
1975.....	4.4	2.0	7.6	3.0	10.6	206.8	10.1
1976.....	4.6	2.1	9.2	3.4	12.6	228.3	9.3
1977.....	4.9	2.2	11.1	3.7	14.8	254.2	9.4
1978.....	4.9	2.2	12.3	4.1	16.4	278.0	9.6
1979 (est.)....	4.9	2.3	13.6	4.3	17.9	311.0	9.6

[1] The SSI program began Jan. 1, 1974. Numbers for prior years represent the number of blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled.

[2] Combined Federal and State expenditures for benefits paid to blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled. Figure for fiscal year 1974 combines the expenditures under both programs.

Disability Insurance.—The disability insurance program has grown in caseload size and cost well beyond what was originally estimated. In part, the growth of the program reflects legislative changes which have expanded coverage and benefits. Much of the growth, however, must be ascribed to other causes such as *de facto* liberalization as a result of court decisions, weaknesses in administration, and greater than anticipated incentives to become or remain dependent upon benefits.

At the time the disability insurance program was enacted in 1956, its long-range cost was estimated to be 0.42 percent of taxable payroll. The "high cost" short-range estimate indicated that benefit outlays would reach a level of $1.3 billion by 1975. Under the 1979 social security trustees' report, the long-range cost of the program is now estimated to be 1.92 percent of taxable payroll. Benefit payments for 1975 totalled $7.6 billion, and benefit payments for 1979 are expected to total approximately $14 billion. (Note: at present payroll levels, 1 percent of taxable payroll is roughly $10 billion.)

Table 4 shows the changes in the estimated costs of the program over the years since it was first enacted. Many of the cost increases in the earlier years are attributable to changes in the law, broadening eligibility. The last major change of this type was enacted in 1967. The reductions in long-range costs after 1977 are partly a result of the new benefit computation for all social security benefits adopted in the 1977 amendments and of the increase in the tax base under those amendments. (An increased tax base has the effect of "lowering" the cost of the program as a percent of taxable payroll even if the actual costs of the program in absolute terms remain unchanged.) The 1978 reduction in long-range costs reflects an actuarial assumption based on a somewhat lower award rate in the past year or two.

There are now about 2.9 million disabled workers receiving DI benefits, increased from 1.3 million in 1969. This represents a 123 percent increase over a 10-year period during which there was no major legislative expansion of eligibility requirements. Currently, in addition to the disabled workers who are receiving benefits, there are benefits being paid to about 2 million dependents of disabled workers. (See table 3 for the number of benefits by type of beneficiary in each State.)

TABLE 3.—OASDHI CASH BENEFITS

[Number of monthly benefits in current-payment status, by type of beneficiary and by State, at end of June 1978]

State [1]	Total	Retired workers [2]	Disabled workers [3]	Wives and husbands [4] of—		Children [5] of—			Widowed mothers and fathers [6]	Widows and widowers [7]	Parents [7]	Persons with special age-72 benefits
				Retired workers	Disabled workers	Retired workers	Deceased workers	Disabled workers				
Total	34,067,797	17,923,874	2,857,843	2,941,839	491,352	662,080	2,799,492	1,511,543	569,192	4,147,505	17,742	145,335
Alabama	615,337	274,014	58,610	56,372	11,818	17,653	64,974	34,148	13,920	81,862	621	1,439
Alaska	18,973	7,953	1,460	993	273	852	1,442	1,054	709	1,197	12	18
Arizona	375,863	205,227	31,718	34,566	5,853	7,655	31,573	16,820	6,115	35,153	176	1,007
Arkansas	427,365	203,305	44,164	42,801	9,050	10,761	31,575	26,131	6,407	51,154	239	1,778
California	3,065,496	1,676,896	291,546	247,490	40,284	56,856	234,812	131,659	44,108	326,720	938	14,187
Colorado	314,998	166,690	24,174	30,118	4,121	5,141	28,189	12,452	5,375	37,101	82	1,555
Connecticut	455,115	273,258	30,771	32,221	4,014	6,487	32,473	12,942	5,516	53,556	167	2,510
Delaware	81,633	43,585	6,739	5,878	976	1,407	7,947	3,363	1,570	9,845	28	295
District of Columbia	89,042	48,408	8,055	4,805	613	1,667	10,433	2,830	1,881	9,721	59	569
Florida	1,859,607	1,105,027	139,670	173,156	22,313	26,887	107,859	61,862	22,077	194,028	573	6,155
Georgia	734,200	333,080	86,296	50,561	14,425	14,782	82,945	47,3[illegible]	16,575	84,546	592	3,058
Hawaii	102,953	54,853	6,693	9,208	1,057	7,376	9,257	3,[illegible]9	1,941	8,435	74	450
Idaho	122,864	67,814	9,030	12,164	1,368	2,385	10,021	[illegible]42	1,735	13,021	26	458
Illinois	1,594,772	882,122	110,622	129,298	15,499	25,355	139,771	,955	26,935	204,439	794	7,981
Indiana	793,795	426,509	61,593	67,373	10,131	12,870	65,[illegible]91	[illegible],869	12,678	101,339	283	2,859
Iowa	482,046	269,754	27,744	53,951	4,500	7,066	30[illegible]	12,689	5,768	66,672	95	3,724
Kansas	366,151	209,108	20,521	38,963	3,080	5,382	25[illegible]	9,496	4,217	49,139	87	2,757
Kentucky	582,470	262,455	55,570	58,591	14,035	13,226	50[illegible]	37,302	11,297	77,431	363	1,838
Louisiana	568,944	227,680	59,362	53,274	14,464	13,880	6[illegible]345	43,534	13,841	77,027	325	2,712
Maine	190,877	105,734	14,885	15,715	2,876	3,213	1[illegible]495	8,688	2,755	22,710	74	732
Maryland	502,251	268,189	39,037	37,204	5,235	8,335	50,496	16,751	9,892	64,085	289	2,738
Massachusetts	894,721	528,358	61,561	63,847	9,467	12,044	63,335	28,620	13,700	109,162	320	4,287
Michigan	1,316,999	667,692	115,690	114,284	19,429	23,699	117,797	61,222	23,187	169,098	556	4,345
Minnesota	599,767	340,603	32,643	63,557	5,343	11,831	41,844	16,289	7,895	75,429	131	4,202
Mississippi	417,726	181,735	43,425	35,832	8,631	14,472	45,368	28,885	9,002	48,832	364	1,180
Missouri	840,158	457,278	65,438	76,923	11,152	13,909	60,773	33,639	11,918	105,298	259	3,571
Montana	114,225	60,251	8,611	10,767	1,540	2,363	10,278	4,650	1,788	13,317	41	619
Nebraska	248,112	142,411	12,859	27,299	2,008	3,520	16,462	6,147	2,964	32,359	57	2,026
Nevada	80,587	44,780	7,971	5,098	1,111	1,307	8,114	3,424	1,493	7,051	18	220
New Hampshire	133,503	81,090	8,989	9,428	1,411	1,913	9,528	4,427	1,882	14,117	26	692

New Jersey	1,116,429	627,594	93,755	78,410	13,376	15,344	85,425	42,1[illegible]	18,497	137,070	558	4,289
New Mexico	162,882	73,812	14,447	15,353	3,852	4,818	18,611	11,43[illegible]	3,995	15,852	149	558
New York	2,837,044	1,601,350	236,823	198,014	35,983	46,717	210,467	114,856	43,061	335,158	1,338	13,277
North Carolina	846,938	415,521	87,409	62,786	13,831	16,444	87,935	41,897	17,737	99,671	682	3,025
North Dakota	101,517	54,513	4,969	13,089	973	2,471	7,349	2,679	1,380	13,402	30	662
Ohio	1,580,052	793,524	134,786	146,346	23,286	25,074	130,707	70,437	26,771	222,000	591	6,530
Oklahoma	469,551	241,873	39,869	48,363	7,184	7,823	33,242	21,079	6,486	61,554	193	1,885
Oregon	389,256	227,210	30,931	33,187	4,830	6,228	25,963	13,696	4,591	41,054	84	1,482
Pennsylvania	1,989,240	1,070,588	160,558	174,289	25,502	27,480	140,850	66,767	31,690	281,770	1,038	8,708
Rhode Island	161,951	97,091	13,417	9,966	1,844	1,954	10,394	5,634	2,242	18,559	57	793
South Carolina	422,000	192,561	48,465	26,739	7,934	8,724	52,560	25,054	11,057	47,034	388	1,484
South Dakota	116,565	63,407	6,338	13,657	1,145	2,336	8,473	3,133	1,576	15,596	20	884
Tennessee	705,111	334,846	71,994	64,274	13,399	15,229	61,416	38,972	13,002	88,461	564	2,954
Texas	1,739,311	848,716	134,944	177,315	26,361	39,727	165,883	79,416	34,676	224,657	1,051	6,565
Utah	138,238	75,558	8,924	13,545	1,626	2,762	13,353	4,904	2,306	14,841	29	390
Vermont	77,860	42,723	6,066	6,542	1,127	1,283	5,[illegible]16	3,385	1,169	9,416	29	404
Virginia	680,538	335,210	63,051	54,531	11,611	13,149	66,[illegible]08	33,115	13,675	85,646	514	3,428
Washington	547,495	312,086	42,665	46,898	6,399	9,118	39,991	19,718	6,669	61,383	130	2,438
West Virginia	354,773	146,469	39,348	35,212	10,495	8,748	28,559	25,126	6,933	52,349	286	1,248
Wisconsin	740,366	419,655	47,866	70,331	7,870	13,330	51,121	24,814	9,609	[illegible],589	167	4,014
Wyoming	47,410	26,629	2,798	4,333	411	842	4,545	1,348	775	5,484	18	227
Other areas												
American Samoa	2,036	349	100	184	56	391	545	228	127	51	5	0
Guam	2,654	679	160	221	46	248	825	191	182	97	5	0
Puerto Rico	536,205	164,746	73,426	48,757	22,976	38,898	49,468	93,705	10,943	32,229	1,037	20
Virgin Islands	6,851	2,990	433	532	77	520	1,280	36[illegible]	232	409	14	0
Abroad	304,974	138,315	8,854	37,228	2,881	18,122	32,543	[illegible]29	9,569	48,329	1,096	8

[1] Beneficiary by State of residence.
[2] Aged 62 and over.
[3] Under age 65.
[4] Includes wife beneficiaries aged 62 and over, nondivorced and divorced, and those under age 65 with entitled children in their care.
[5] Includes disabled persons aged 18 and over whose disability began before age 22 and entitled full-time students aged 18 to 21.
[6] Includes surviving divorced mothers and fathers with entitled children in their care.
[7] Aged 60 and over for widows, widowers, and surviving divorced wives, and aged 62 and over for parents. Also includes disabled widows, widowers, and surviving divorced wives aged 50 to 59.

Source: Social Security Bulletin, March 1979/vol. 42, No. 3.

TABLE 4.—GROWTH IN ESTIMATED COST OF DI PROGRAM

Year of estimate	Estimated cost		
	Long-range (as percent of payroll)	Short-range [1] (millions)	1980 projection (millions)
1956	0.42	$379	([2])
1958	.49	492	$1,380
1960	.56	864	1,550
1965	.67	1,827	2,211
1967	.95	2,068	3,351
1973	1.54	6,295	NA
1975	2.97	9,640	NA
1976	3.51	12,715	16,197
1977	3.68	14,822	16,817
1978	2.26	16,532	16,532
1979	1.92	17,212	15,600

[1] Short-range represents intermediate estimate of cost for second year after the year of estimate.

[2] No 1980 projection made; 1975 costs were projected to be $949,000,000.

NA—not available.

Source: Estimates prepared by the Office of the Actuary of the Social Security Administration in connection with legislation (1956–67) or as a part of annual trustees' reports (1973–79). Short-range costs shown in this table are benefit payments only.

The following table shows the number of awards by calendar year over the last decade. The number of disabled worker awards in the last 5 years has been about 2.7 million. Through the 1968–78 period the annual number of awards rose from an average of about 340,000 for 1968–70 to a peak of 592,000 in 1975. Following 1975, there was no longer a steady upward trend. Instead, the number of awards in 1976–77 was about 5 percent lower than in 1975. The 1978 decrease was even sharper, to a level about 23 percent below that of 1975.

TABLE 5.—DISABLED-WORKER BENEFIT AWARDS, 1968–78

	Number of awards	Awards per 1,000 insured workers
Calendar year:		
1968	323,514	4.8
1969	344,741	4.9
1970	350,384	4.8
1971	415,897	5.6
1972	456,562	6.0
1973	491,955	6.3
1974	535,977	6.7
1975	592,049	7.1
1976	551,740	6.5
1977	569,035	6.6
1978	457,451	5.2

Source: Prepared by Robert J. Myers, consultant to the Committee on Finance

Following the rapid increases in the number of applications for title II worker disability in the first half of the 1970's, there has been a distinct leveling off, even a decrease, in the number applying. The decrease, however, has not been as significant as the decrease in the number of awards. In the same period referred to above, 1975–78, title II disabled worker applications decreased by about 8 percent. The most recent statistics available for 1979, however, show that for the first 5 months of this year the number of applications has been slightly higher than for the corresponding period in 1978.

TABLE 6.—TITLE II DISABLED WORKER APPLICATIONS RECEIVED IN DISTRICT OFFICES, 1970 THROUGH 1978 [1]

[In thousands]

1970	868.7
1971	943.0
1972	947.5
1973	1,067.5
1974	1,331.2
1975	1,284.7
1976	1,256.3
1977	1,235.5
1978	1,184.8
January–May 1978	485.6
January–May 1979	489.0

[1] Calendar year.

Source: Social Security Administration.

Supplemental security income.—When the Congress was considering the enactment of the supplemental security income legislation in 1972, the estimates it had before it did not accurately portray the future nature of the caseload and costs of the program. Nor was there any testimony that indicated how the implementation of the program might affect the administrative capacity of the Social Security Administration, and, most particularly, the capacity of the disability adjudication structure.

Most of the discussion leading up to congressional passage of SSI centered on serving the aged population. Congress accepted estimates of the Administration indicating that the SSI population would continue to be composed largely of the aged. The Administration estimated that, by the end of fiscal year 1975, there would be almost two aged beneficiaries for every disabled beneficiary. While it was foreseen that the number of persons receiving disability benefits would grow under the new program, it was expected that the number of aged beneficiaries would grow even more.

In calendar years 1974 and 1975, the first 2 years of the SSI program, the disability caseload increased substantially, from about 1.3 million individuals in January 1974 to about 2 million 2 years later. Since that time the actual number of persons receiving payments on the basis of disability has appeared to be stabilizing.

However, the SSI program is nonetheless becoming a program that is increasingly dominated by the disability aspects. Out of the 4.2 million persons receiving SSI benefits, 2.2 million came onto the rolls as the result of being determined to be disabled. (319,000 of these individuals have now reached age 65, but are still listed by SSA as being disabled. See table 7 for a State-by-State listing of recipients.)

Perhaps most indicative of the predominance of disability issues in the program are the figures showing numbers of applicants for benefits. About 80 percent of all applications are now being made on the basis of disability. (See table 8.) This has been the case since 1976. In addition, about two-thirds of all awards made in recent years have been made to persons determined to be disabled. (See table 9.) Program expenditures also reflect the numbers and relatively higher average SSI payments of the disabled SSI population. About 60 percent of all SSI expenditures now go to persons who have been determined to be disabled. (See table 10.)

At the present time, more than 1 million, or nearly half of all disability applications received in social security district offices, are applications for SSI benefits. In 1974, the first full year of the SSI program, there were fewer than 800,000 applications, compared with

1.3 million title II applications. Over the 5½ years of the SSI program, SSI disability applications have increased steadily as a percentage of all disability applications. Persons working with the disability programs generally are agreed that the establishment of the SSI disability program, acting as a kind of out-reach mechanism, had the result of increasing the number of applications for title II disability.

TABLE 7.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]

State	Total	Aged	Blind	Disabled
Total [1]	4,229,782	1,956,318	77,475	2 195,989
Alabama [2]	140,182	84,301	1,914	53,967
Alaska [2]	3,205	1,278	68	1,859
Arizona [2]	29,264	12,318	530	16,416
Arkansas	82,489	47,879	1,574	33,036
California	701,724	319,032	17,284	365,408
Colorado [2]	32,927	15,322	362	17,243
Connecticut [2]	23,496	7,991	313	15,192
Delaware	7,195	2,753	185	4,257
District of Columbia	14,908	4,293	197	10,418
Florida	169,271	86,696	2,579	79,996
Georgia	158,406	77,482	2,943	77,981
Hawaii	10,147	5,189	146	4,812
Idaho [2]	7,601	2,968	93	4,540
Illinois [2]	125,997	38,501	1,697	85,799
Indiana [2]	41,579	16,672	1,068	23,839
Iowa	26,557	12,250	1,081	13,226
Kansas	21,621	9,161	322	12,138
Kentucky [2]	95,667	46,909	2,034	46,724
Louisiana	143,097	73,544	2,182	67,371
Maine	22,782	10,921	286	11,575
Maryland	48,599	17,046	574	30,979
Massachusetts	131,641	73,735	4,977	52,929
Michigan	118,214	42,397	1,729	74,088
Minnesota [2]	34,191	14,479	644	19,068
Mississippi	115,947	67,313	1,828	46,806
Missouri [2]	89,169	46,509	1,502	41,158
Montana	7,340	2,679	140	4,521
Nebraska [2]	14,144	6,212	243	7,689
Nevada	6,444	3,518	406	2,520
New Hampshire [2]	5,455	2,319	132	3,004

TABLE 7.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]—Continued

State	Total	Aged	Blind	Disabled
New Jersey	84,617	33,452	1,021	50,144
New Mexico [2]	25,717	11,104	441	14,172
New York	377,901	147,302	3,970	226,629
North Carolina [2]	143,548	68,300	3,330	71,918
North Dakota [2]	6,862	3,701	65	3,096
Ohio	123,832	40,268	2,313	81,251
Oklahoma [2]	72,657	39,161	1,064	32,432
Oregon [2]	23,016	8,113	536	14,367
Pennsylvania	170,207	63,345	3,620	103,242
Rhode Island	15,506	6,361	184	8,961
South Carolina [2]	84,287	40,934	1,884	41,469
South Dakota	8,377	4,240	132	4,005
Tennessee	133,899	66,807	1,876	65,216
Texas [3]	269,678	160,271	4,126	105,281
Utah [3]	8,084	2,651	162	5,271
Vermont	9,083	3,947	120	5,016
Virginia [2]	80,461	37,604	1,419	41,438
Washington	48,541	16,992	546	31,003
West Virginia [2]	42,703	15,802	626	26,275
Wisconsin	68,883	32,987	958	34,938
Wyoming [2]	2,023	928	26	1,069
Unknown	57	17	.....	40
Other areas:				
Northern Mariana Islands [3]	584	364	23	197

[1] Includes persons with Federal SSI payments and/or federally administered State supplementation, unless otherwise indicated.

[2] Data for Federal SSI payments only. State has State-administered supplementation.

[3] Data for Federal SSI payments only; State supplementary payments not made.

Source: Social Security Administration.

TABLE 8.—SSI APPLICATIONS, BY CATEGORY, 1974–78

Calendar year	Total	Aged	Blind and disabled	Blind and disabled as a percent of total
1974	2,296,400	926,900	1,369,500	60
1975	1,498,400	377,400	1,121,000	75
1976	1,258,100	254,400	1,003,700	80
1977	1,298,400	258,500	1,039,900	80
1978	1,304,300	257,900	1,046,400	80

Source: Data provided by the Social Security Administration.

TABLE 9.—NUMBER OF PERSONS INITIALLY AWARDED SSI PAYMENTS [1]

Year	Total SSI awards	Disabled	Disability as percent of total
1974	890,768	387,007	43
1975	702,147	436,490	62
1976	542,355	365,822	67
1977	557,570	362,067	65
1978	532,447	348,848	66

[1] Federally administered payments.

Source: Data provided by the Social Security Administration.

TABLE 10.—SSI BENEFIT EXPENDITURES [1]

Calendar year	Total	Disability [2]	Disability as percent of total
1974	$5,096,813	$2,556,988	50
1975	5,716,072	3,072,317	54
1976	5,900,215	3,345,778	57
1977	6,134,085	3,628,060	59
1978	6,371,638	3,881,531	61

[1] Federally administered payments.

[2] SSI program record-keeping maintains individuals on the rolls as disabled after they have reached age 65. In 1978 about $300,000 was paid to disabled individuals in this category.

Source: Data provided by the Social Security Administration.

Causes for Growth

As the preceding discussion shows, the experts have had very great difficulty estimating how the disability programs would develop, and they have frequently been wrong. They have found it equally difficult to pinpoint the reasons for growth in the disability programs, partic-

ularly in the disability insurance program. The growth that took place, primarily in the first half of the 1970's, would seem to have leveled off. But there is still no consensus on exactly why it happened, the weight to be given to various factors, or even on whether the period of rapid growth is over.

1. INCREASES IN DISABILITY INCIDENCE RATES

The table below shows standardized disability incidence rates under the disability insurance program for the period 1968–75. As can be seen, the rates show an almost steadily increasing trend from 1968, although appearing to level off in 1973–75.

TABLE 11.—STANDARDIZED DISABILITY INCIDENCE RATES UNDER DI, 1968–75

[Rates per 1,000 insured]

(Reprinted from "Actuarial Analysis of Operation of Disability Insurance System Under Social Security Program," by Robert J. Myers, appearing in a committee print of the Subcommittee on Social Security of the House Ways and Means Committee on "Actuarial Condition of Disability Insurance, 1978," Feb. 1, 1979, p. 7).

	Standardized rate [1]	Percentage increase over 1968
Year:		
1968	4.46	.....
1969	4.29	−4
1970	4.77	+7
1971	5.25	+18
1972	6.00	+35
1973	7.20	+61
1974	7.14	+60
1975	6.85	+54

[1] Overall incidence rate based on age-sex distribution of persons insured for disability benefits as of Jan. 1, 1975 (as shown in table 50, "Statistical Supplement, Social Security Bulletin," 1975); and on incidence rates by age and sex as shown in "Actuarial Study No. 74" and "Actuarial Study No. 75," Social Security Administration.

Social Security Administration actuaries attempted to assess the reasons for the increase in incidence rates in a report published in January 1977, "Experience of Disabled-Worker Benefits under OASDI, 1965–74." Their analysis points to a variety of factors, including increases in benefit levels, high unemployment rates, changes in attitude of the population, and administrative factors. These factors, as analyzed by the actuaries, are worth considering in some detail.

Starting off their discussion, the actuaries observe:

> We believe that part of the recent increase in incidence rates is due to the rapid rise in benefit levels since 1970, particularly when measured in terms of pre-disability earnings. From December 1969 to December 1975 there were general benefit increases amounting to 82 percent. Also, effective in 1973, medicare benefits became available to disabled worker

> beneficiaries who have been entitled for at least 2 years. We also believe the short computation period for the young workers, the weighting of the benefit formula for the low income workers, and the additional benefits payable when the worker has dependents can provide especially attractive benefits to beneficiaries in these categories. It is possible under the present formula for these beneficiaries to receive more in disability benefits than was included in their take-home pay while they were working. Benefits this high become an incentive to file a claim for disability benefits, and to pursue the claim through the appellate procedures. (p. 5)

The actuaries believe that another factor in the increase in incidence rates is the high unemployment rate that the country experienced after 1970. They argue that physically impaired individuals are more likely to apply for benefits if they lose their jobs in a recession than during an economic expansion when they can retain their jobs.

According to the actuaries, another factor influencing increases in incidence rates is changes in attitude. Elaborating on this theme, they state that "It is possible that the impaired lives of today do not feel the same social pressure to remain productive as did their counterparts as recently as the late 1960's." The actuaries quote John Miller, a consulting actuary and expert in the field of disability insurance, who commented in a report to the House Social Security Subcommittee on the subjective nature of the state of disability:

> The underlying problem in providing and administering any plan of disability insurance is the extreme subjectivity of the state of disability. This characteristic could be discussed at length and illustrated with an almost endless array of statistics but it can best be visualized by comparing a Helen Keller or a Robert Louis Stevenson with any typical example of the multitude of ambulatory persons now drawing disability benefits who could be gainfully employed if (a) the necessary motivation existed, and (b) an employment opportunity within their present or potential capability were present or made available. Thus the problem is not simply one of medical diagnosis. The will to work, the economic climate and the "rehabilitation environment" outweigh the medical condition or problem in many, if not in most, cases.
>
> (Reports of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance, to the Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, p. 24.)

The authors were unwilling to attribute the increase in disability incidence rates to these factors to any specific degree, and observed only that they were responsible for "a large part" of the increases. Beyond that they state: "We feel that some administrative factors must have also played an important part in the recent increases, but we cannot offer a definite proof to that effect."

One administrative factor mentioned is the multi-step appeals process, which enables the claimant to pursue his case to what the actuaries term as the "weak link" in the hierarchy of disability determination. Under the multi-step appeals process, a claimant who has been denied

benefits may request first a reconsideration, then a hearing before an Administrative Law Judge, appeal his hearing denial to the Appeals Council, and, if his case is still denied, take his claim to the U.S. district court. The actuaries claim that by the very nature of the claims process, the cases which progress through the appeals process are likely to be borderline cases where vocational factors play an important role in the determination of disability. The definition of disability—"inability to engage in any substantial gainful activity by reason of a medically determinable impairment"—involves two variables: (1) impairment and (2) vocational factors. An emphasis on vocational factors, they say, citing William Roemmich, former Chief Medical Director of the Bureau of Disability Insurance, can change the definition to "inability to engage in usual work by reason of age, education, and work experience providing any impairment is present." To the extent that vocational factors are given higher weight as a claim progresses through the appeals process, the chances of reversal of a former denial is increased.

The actuaries also cite the "massive nature" of the disability determination process as one of the administrative factors which may be responsible for the growth in rolls. There has been an enormous increase in the number of claims required to be processed by the system. In fiscal year 1969, the Social Security Administration took in over 700,000 claims for disability insurance benefits. By 1974 the number of DI claims per year had grown to 1.2 million. In addition, over 500,000 disability claims under the black lung program, which started during 1970, had been taken in. And the number of SSI disability claims being taken in approached another million. As the actuaries point out, all this was happening at a time when the administration was making a determined effort to hold down administrative costs.

During this period it would appear that there was an inevitable conflict within the administrative process between quality and quantity. The winner, it would appear, was quantity. The actuaries state:

> All of this put tremendous pressure on the disability adjudicators to move claims quickly. As a result the administration reduced their review procedures to a small sample, limited the continuing disability investigations on cases which were judged less likely to be terminated, and adopted certain expedients in the development and documentation in the claims process. Although all of these moves may have been necessary in order to avoid an unduly large backlog of disability claims, it is our opinion that they had an unfortunate effect on the cost of the program (p. 8).

A final factor given for the increase in the incidence rates is "the difficulty of maintaining a proper balance between sympathy for the claimant and respect for the trust funds in a large public system." The actuaries maintain that they do not mean that disability adjudicators consciously circumvent the law in order to benefit an

unfortunate claimant. They mean rather that in a program designed specifically to help people, whose operations are an open concern to millions of individuals, and where any one decision has an insignificant effect on the overall cost of the program, there is a natural tendency to find in favor of the claimant in close decisions. "This tendency is likely to result in a small amount of growth in disability incidence rates each year, such as that experienced under the DI program prior to 1970, but it can become highly significant during long periods of difficult national economic conditions." (p. 8.)

Although the above discussion of the factors in increased incidence rates was aimed specifically at the disability insurance program, it would seem to be applicable also to the SSI program. The same definition and the same administrative procedures are used in both programs. And it is logical to assume that the economic, human, and administrative factors which affect growth would be present in both programs.

Decrease in Terminations

At the same time that there have been increases in disability incidence rates, there have also been decreases in disability termination rates. As the table below shows, death termination rates have decreased gradually over the years from about 80 per thousand in 1968 to about 50 per thousand in 1977.

TABLE 12.—DISABILITY TERMINATION RATES UNDER DI, 1968–77

(Reprinted from "Actuarial Analysis of Operation of Disability Insurance System Under Social Security Program," by Robert J. Myers, cited earlier, (p. 7)).

	Number of terminations (thousands)		Termination rates [1]	
	Death	Recovery	Death	Recovery
Year:				
1968.....	99.9	37.7	79	30
1969.....	108.8	38.1	80	28
1970.....	105.8	40.8	72	28
1971.....	109.9	43.0	69	27
1972.....	108.7	39.4	62	22
1973.....	125.6	36.7	65	19
1974.....	135.1	[2] 38.0	63	18
1975.....	139.8	[2] 39.0	59	16
1976.....	137.1	[2] 40.0	53	15
1977.....	139.4	[2] 60.0	50	22

[1] Rate per 1,000 average beneficiaries on the roll.
[2] Estimated.

The actuarial study referred to earlier cites several reasons for the decline in the death termination rate: legislative changes which brought in younger workers, maturation of the program, the liberalized definition of disability in the 1965 amendments from permanent disability to one that is expected to last at least 12 months, and

improved medical procedures that have also contributed to the decline in death rates in the general population.

However, the actuaries state that although all of these reasons contributed to the decline, "it is doubtful that they can fully account for the rather rapid decrease that has been observed." Rather, they say, they believe that healthier applicants are being awarded disability benefits and consequently there is a tendency for the overall mortality rates to decline:

> The magnitude of the increase in the incidence rates is so substantial, that it is likely to have had a significant effect on the characteristics of applicants that are being awarded disability benefits. It is our belief that progressively healthier individuals have been granted benefits, and that progressively healthier individuals have been allowed to stay on the rolls (p. 12).

Examining the other significant factor in termination rates, recovery rates, the actuaries come to essentially the same conclusion:

> The rapid decrease in the gross recovery rate since 1967 cannot be explained in terms of legislated changes since there have not been any major changes in the law since then. As with the decline in the gross death rate, and probably even more so, it is believed that progressively healthier beneficiaries are being allower to continue receiving benefits without being terminated (p. 12).

The actuaries also cite administrative changes as a possible reason for a decline in recoveries due to a determination of improvements in the beneficiary's physical condition. Pinpointing "administrative expediency," they note that the high workload pressures of past years forced SSA to curtail some of its policing activities. The Social Security Administration made continuing disability investigations of about 10 percent of the DI beneficiaries on the rolls in years prior to 1970. During fiscal years 1971 to 1974, when the administrative crunch of the black lung and SSI programs were at their peak, there was an investigation of just over 4 percent of the DI beneficiaries in a year.

A final factor which is mentioned in the actuaries analysis is high benefit levels, or high replacement ratios. Defining the replacement ratio as the annual amount of benefits received by the disabled worker and his dependents divided by his after tax earnings in the year before onset of disability, the actuaries claim that the average replacement ratio of disabled workers with median earnings has increased from about 60 percent in 1967 to over 90 percent in 1976. During this period the gross recovery rate decreased to only one-half of what it was in 1967.

More recently, the Social Security Administration actuaries commented on how replacement ratios affect the recovery rate by noting:

> High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial

work period provision has been largely negated by the prospect of losing the high benefits. ("Experience of Disabled Workers Benefits Under OASDI, 1972–76," actuarial study No. 75, June 1978.)

A study of disabled workers who were awarded benefits in 1972 which appeared in the April 1979 issue of the Social Security Bulletin found that, among certain workers with conditions most subject to medical improvements, those with high replacement rates were less likely to leave the rolls. More specifically, the study found that among younger workers, a relationship of benefits to recovery according to earnings-replacement level was apparent. Twenty percent of those under age 40 with higher replacement rates recovered from their disabilities. This percentage increased to 32 when the replacement rate was less than 75 percent. A similar effect was found for those with dependent children and for those with injuries such as fractures and disc displacements.

Current Status of the Programs

Recent statistics seem to indicate that the social security disability programs are leveling off. Title II disabled worker applications have been decreasing on an annual basis since 1974. SSI disability applications have been increasing, but at a rate significantly lower than in earlier years. As mentioned earlier, for the first 5 months of 1979 the number of title II disabled worker applications was virtually the same as for the same period in the previous year. SSI disability applications were up by 7.5 percent in that same period of time.

Application statistics, however, are perhaps not as significant as other program statistics—those telling how many are coming on the rolls and those telling how many are going off. Between 1975 and 1978 the number of benefits awarded to disabled workers dropped from 592,049 in 1975 to 457,451 in 1978, a 23 percent decrease. In the first 5 months of 1979 this trend continued, with awards in that period about 13 percent lower than for the same 5-month period in 1978. SSI awards to the disabled have also been declining, from a high of 436,490 in 1975, to 348,848 in 1978, a decline of about 20 percent. Statistics show that this trend is continuing into 1979. SSI awards on the basis of disability for the first 5 months of 1979 were about 7 percent below those of the previous year.

Program statistics also show a considerable increase in State agency denial rates. In fiscal year 1973, 47 percent of all State agency initial decisions relating to title II disabled workers were denials. The denial rate in 1978 was 60 percent. State agency initial decisions on SSI applications resulted in a denial rate of about 58 percent in 1977, increasing to 64 percent in 1978. For the last quarter in 1978 the denial rate reached nearly 67 percent.

In addition, available statistics show that the number of cessations as opposed to continuances in determinations of continuing disability for disabled workers have greatly increased as follows:

TABLE 13.—TITLE II DISABLED WORKERS, CESSATIONS AND CONTINUATIONS, 1975–78

Calendar year	Cessations		Continuations		Total cases (continuations and cessations)
	Number	Percent	Number	Percent	
1975	37,200	31.2	82,000	68.8	119,200
1976	37,600	33.5	74,700	66.5	112,300
1977	58,200	46.0	68,400	54.0	126,600
1978	61,400	50.8	59,400	49.2	120,800

Experts in the field of disability are reluctant to draw many conclusions from these statistics. There is a feeling of unease about their significance, particularly over the long term. The 1979 trustees' report shows an improved forecast for the DI trust fund over the one made last year. This is caused by projections of lower rates of enrollment than were made previously and were based on the actual slowdown in new awards since the last quarter of 1977 (although enrollment is still projected to rise in the future under all three sets of economic assumptions in the report—optimistic, intermediate, and pessimistic). The trustees add their own note of caution, however, observing that "this reduction in the incidence of disability was not anticipated and its causes are not very clear, so it is uncertain whether the trend will continue in the future."

Problems Addressed by the Committee Bill

The disability programs administered by the Social Security Administration have been the subject of intensive study and review in recent years. The Congress and the Administration have both participated in this process. In summary, problems which have been identified include unpredicted and extraordinary growth in costs and caseloads, disincentives for beneficiaries to return to work, and inadequate and sometimes inequitable administrative procedures.

The committee bill has as its primary purpose the strengthening of the integrity of the disability programs by placing a limit on disability insurance benefits in those cases where benefits tend to exceed the net predisability earnings on which the benefits are based; providing positive incentives, as well as removing disincentives, for SSI and DI beneficiaries to return to work; and improving accountability and uniformity in the administration of the programs.

The provisions designed to accomplish this purpose are described in detail below.

B. Provisions Relating to Disability Benefits Under OASDI Program

LIMIT ON FAMILY DISABILITY INSURANCE BENEFITS

(Section 101 of the Bill)

Present law.—The social security disability insurance program determines the amount of benefits payable based on an individual's previous earnings. The formula for determining disability benefits is the same as for retirement benefits. The benefit level is arrived at by applying a formula to the average earnings the individual had over the course of a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by 5.

The basic benefit amount may be increased if the worker has a dependent spouse or children. Benefits for the spouse are payable if the spouse is over age 62 or if the spouse is caring for minor or disabled children. Benefits for children are payable if they are under age 18 or are disabled (as a result of a disability which existed in childhood) or if they are full-time students over age 18 but under age 22. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

The benefits payable to disabled workers cover a broad range from a minimum of $122 monthly to a maximum (for a worker who became disabled in 1978) of about $730. The average benefit for all disabled workers in June 1979 was $320 per month. The average total family payment for disabled workers with dependents was $639 per month.

The benefit amounts payable under the social security disability insurance program have increased very greatly over the past decade. In part, these increases simply reflect the percentage increases in social security benefit levels resulting from legislation and from the automatic cost-of-living increase provisions instituted by the 1972 amendments. Wage growth in the economy also contributes to increased benefits since social security benefit amounts are determined by applying the benefit formula to an individual's average wages under social security. The impact of wage growth over the past several years has tended to be reflected in disability benefit increases more than in retirement benefit increases. The rate of growth in disability benefits as compared to retirement benefits is shown in the table below.

TABLE 14.—INCREASES IN BENEFITS AWARDED TO RETIRED AND DISABLED WORKERS, 1969 TO 1978

Year	Retirement awards			Disability awards		
		Percentage			Percentage	
	Average amount	Over 1969	Over prior year	Average amount	Over 1969	Over prior year
1969	$106			$118		
1970	124	17	17	140	19	19
1971	138	30	11	157	33	12
1972 [1]	169	59	22	193	64	23
1973	170	60	1	197	67	2
1974 [2]	192	81	13	217	84	10
1975 [2]	214	102	11	243	106	12
1976 [2]	234	121	9	271	130	12
1977 [2]	255	141	9	295	150	9
1978 [2]	278	162	9	328	178	11

[1] September–December average.
[2] June–December average.

Source: Social Security Bulletin.

The average disability award has increased from $118 to $328 over the 10-year period 1969–78. This is a 178-percent increase. During the same period of time, the cost of living (as measured by the Consumer Price Index) rose by about 80 percent. A part of this rapid growth in disability benefit levels is attributable to the over-indexing aspects of the automatic increase provisions enacted in 1972. Under the revised benefit formula adopted in the 1977 Amendments, initial benefit levels will continue to increase at a rate in excess of the inflation rate but to a lesser extent than under the prior law.

One of the reasons which has been advanced to explain the rapid growth in the disability program in recent years is that the increased benefit levels have made it more likely that any given individual will become and remain a beneficiary. When benefit levels were very low, an individual with a disability might find it economically advantageous to continue working even though his impairment limited his earnings to quite low levels. Similarly, an individual who became a recipient had a potential for significantly increasing his family income by participating in a program of rehabilitation. The higher benefit levels now prevailing in the program substantially reduce the extent to which a disabled person would find it advantageous to remain in or return to employment.

While it is possible to draw a general conclusion that increased benefit levels appear to have contributed to the rapid growth of the program which occurred in the early and mid-1970's, there is no simple rule of thumb for determining the optimum benefit level which balances the desire for reasonable adequacy against the desire to maintain a reasonable incentive for continued employment or rehabilitation. Clearly, this line falls somewhere below a level of 100 percent of prior earnings, since disability benefits are tax free and are also free of various other costs an individual would probably incur in working. The availability of medicare for those who have been on the disability rolls for at least two years is also a factor. Considerable analysis has been conducted of the relationship between the initial benefit level and prior earnings. This analysis has shown that there are numerous instances where disability insurance benefits come close to or even exceed the worker's prior earnings.

In transmitting the Administration's proposed changes to the DI program in March of this year, the Secretary of HEW pointed out that 6 percent of DI beneficiaries receive more through their DI benefits alone than their net earnings while working, and that 16 percent have benefits which exceed 80 percent of their prior net earnings. The Secretary's analysis was based on comparisons of benefit awards to the workers' highest 5 years of indexed earnings. Using the high-five years of indexed earnings may tend to understate the prevalence of high replacement rates.

The following table, provided by the Social Security Administration's actuaries, which is based on a sample of approximately 10,000 DI awards made in 1976, shows the replacement rates resulting from those awards under two illustrative approaches of measuring replacement rates. The first approach encompasses the period of earnings used to compute average indexed monthly earnings (AIME) as the base to which benefits are compared. The second approach uses the highest 5 years of indexed earnings during the 10-year period immediately preceding the onset of the disabling condition. These replacement rates represent the percent of gross earnings which the DI benefits replace. Replacement rates would be even higher when "net earnings" are considered.

TABLE 15.—DI REPLACEMENT RATES COMPUTED FROM 2 DIFFERENT MEASURES OF DR DISABILITY EARNINGS

Replacement rates [2] (1979 PIA) levels	Awards at each level of earnings replacement [1]			
	Using AIME		Using high 5 yr of indexed earnings in last 10	
	Number of cases	Percent of total	Number of cases	Percent of total
Under 30 percent	0	0	268	3
30 to 39 percent	79	1	2,930	31
40 to 49 percent	3,669	38	2,168	23
50 to 59 percent	1,456	15	1,184	12
60 to 69 percent	947	0	1,353	14
70 to 79 percent	1,215	13	771	8
80 to 89 percent	1,477	15	526	5
90 to 99 percent	181	2	148	2
100 percent and over	561	6	237	2
Total sample	9,585	100	9,585	100
Average replacement rate (percent)	58		49	

[1] These awards include both individual and family benefits where applicable. The actual awards were made before a "decoupled" system was put into effect. However, the awards were recomputed for sample purposes as if a decoupled system existed to give some sense of the longer-range direction of DI replacement rates.

[2] Represents replacement of gross earnings.

Both approaches to measuring replacement—i.e., either long or recent periods of a worker's earnings history—show that there are a substantial number of DI awards which by themselves result in replacement rates in excess of predisability earnings. Using 80 percent of gross predisability earnings as an approximation of predisability disposable earnings, about 23 percent of the awards in the sample were above that level using AIME as the base period for measurement, and approximately 10 percent of the awards in the sample were above that level using the high 5 years of indexed earnings during the 10-year period prior to the onset of disability as the base period for measurement. Approximately two-thirds of these cases involved the payment of dependents benefits in addition to those of the worker.

Actuarial studies in both the public and private sector have indicated that high replacement rates may constitute an incentive for impaired workers to attempt to join the benefit rolls, and a disincentive for disabled beneficiaries to attempt rehabilitation or return to the work force. An analysis by the social security actuaries has indicated:

> The average replacement ratio of newly entitled disabled workers with median earnings and who have qualifying dependents increased from about 60 percent in 1967 to over 90 percent in 1976, an increase of about 50 percent. During this time the gross recovery rate decreased to only one-half of what it was in 1967. High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial work period provision has been largely negated by the prospect of losing the high benefits.

("Experience of Disabled Workers Benefits Under OASDI, 1972–1976," actuarial study No. 75, June 1978.)

An actuarial consultant's report to the Committee on Ways and Means also concludes:

> * * * disability income dollars are, in general, much more valuable and have much more purchasing power than earned dollars. The DI benefits are fully tax exempt, as are insured benefits except for employer provided benefits in excess of $100 per week. For a worker with a spouse and a child, paying an average State income tax, 50 percent of salary in the form of disability benefits may well equal 65 percent or more of gross earnings after tax. In addition, the disabled individual is relieved of many expenses incidental to employment such as travel, lunches, special clothing, union or professional dues, and the like.
>
> It is a cause for deep concern that gross ratios of 0.600 or more apply to all young childless workers at median or lower salaries and to nearly all workers with a spouse and minor child for earnings up to the earnings base. In other words, all workers entitled to maximum family benefits are overinsured except older workers whose earnings approach the earnings base, middle-aged workers who earn not more than the earnings base, and young workers except those earning substantially more than the earnings base.
>
> Although these excessive replacement ratios have not been in effect long enough to have been fully reflected in the disability experience, overly liberal benefits may have played some part in the 47 percent increase, between 1968 and 1974, in the average rate of becoming disabled. Other than the indexing provisions, statutory changes during this period could have had no great effect. There is no evidence that the health of the nation has deteriorated. Rising unemployment has clearly been a factor, but the increasing attractiveness of the benefits must also be an important influence.

(U.S. Congress, House, Subcommittee on Social Security of the Committee on Ways and Means, *Report of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance*, 94th Congress, 2d Session, 1976.)

Testimony heard by the Finance Committee from a private actuary on behalf of a number of insurance companies includes similar observations. This actuary states the following about private disability insurance experience:

> * * * claim costs increase dramatically when replacement ratios exceed 70 percent of gross earnings, and are unsatisfactory when replacement ratios exceed 60 percent of gross earnings . . . Expected claims is the level of claim costs that is assumed in determining premiums, so a ratio of 100 percent would be what a company would expect to achieve when it sets rates . . . large exposures show claims at 87 percent of expected when the replacement ratio was 50 percent, 93 percent of expected when the replacement ratio was 50 percent to 60 percent, 106 percent when the replacement ratio was between 60 percent and 70 percent, and a jump in the ratio of actual to expected claims of 219 percent—more than double what the premium allowed—when the replacement ratio exceeded 70 percent of gross earnings.

(U.S. Congress, Senate, Committee on Finance, testimony of Gerald S. Parker on H.R. 3236, Social Security Disability Legislation, October 10, 1979.)

Analysis by the Congressional Budget Office further indicates that it is not correct to assume that a typical disabled worker family is dependent entirely or almost entirely on social security benefits. Disabled workers in families with children derive on average only about 40 percent of their total cash income from social security benefits. The analysis indicates that very few worker families have more than a 10 percent reduction in disposable income as a result of disability.

In summary, this analysis shows that the combined impact of high social security disability insurance replacement rates and substantial other sources of family income is to insulate disabled worker families, as a group, from any major reduction in income as a result of their disability.

Committee bill.—The committee is concerned about the impact these high benefit levels and replacement rates have had on the growth of the program, in that they may have caused both incentives for impaired workers to stop working and apply for benefits, and disincentives for DI beneficiaries to leave the benefit rolls. The Committee further is concerned about the inappropriateness of having situations where benefits exceed predisability earnings in a program intended primarily to replace lost earnings.

The Committee bill would address these concerns through a provision which limits total DI family benefits to an amount equal to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. Under the provision no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals becoming entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978. The limitation would not apply to individuals who join the benefit roll after the effective date of the provision who were on the rolls (or had a period of disability) at another time prior to calendar year 1980. This will preclude the new limit on family benefits from applying to anyone who was on the roll in the past. Approximately 120,000 family units, encompassing 355,000 beneficiaries, will be affected by the limitation in the first full year after enactment.

The Secretary would be required to report to the Congress by January 1, 1985 on the effect of the limitation on benefits and of other provisions of the bill.

The committee further is concerned about situations where the payment of disability benefits to an individual from a number of public disability pension or like systems results in aggregate benefits which exceed the individual's predisability earnings. While coordination exists between the DI program and State worker's compensation programs for the purpose of keeping the two forms of disability benefits at an aggregate level no higher than the worker's net predisability earnings, there are numerous other Federal and State programs providing disability benefits or compensation which are not coordinated at all with the DI program. The General Accounting Office has already undertaken a study of the relationship between social security and workers' compensation under the existing provision. The Committee requests the General Accounting Office to also study the prevalence of multiple receipt of disability benefits from DI and other programs (in addition to worker's compensation), as well as various approaches to better coordinate the overall benefits provided to an individual for the purpose of precluding them from exceeding the worker's predisability earnings. This report and the recommendations of the General Accounting Office will be the subject of hearings which the committee intends shall be held next year by its subcommittee on social security.

REDUCTION IN DROPOUT YEARS

(Section 102 of the Bill)

Present law.—Under present law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes.

Although the same general rules apply to determining benefits for disabled individuals and their dependents as to determining benefits for retired workers and their dependents, the application of these rules leads to somewhat different results. In general, benefit levels are apt to be higher for disabled workers because of the smaller number of years over which earnings must be averaged. This is particularly true for younger disabled workers for whom as few as two years may be used in determining the average earnings to which the benefit formula will be applied. For example, in the case of a worker who is disabled at age 29, the number of years used to determine his benefit is equal to the 7 years between the year in which he reached age 21 and the year in which he became disabled less the 5 drop-out years. His benefit is based on his earnings in those two years in which he had his highest earnings. For a worker age 50 or over this exclusion represents only 18 percent of his or her earnings history (5 years out of 28). It represents, however, a 71 percent exclusion for a 29-year-old (5 years out of 7).

Because earnings levels in the economy tend to increase from year to year, the advantage to the younger disabled worker of having his earnings averaged over a very few high years is magnified since the older worker is forced to include years when earnings levels were lower. Prior to the 1977 amendments, this problem was particularly severe since earnings were averaged at their actual values. The 1977 amendments lessened but did not eliminate this advantage by providing for the indexing of earnings to compensate for the impact of changing wage levels in the economy. Younger workers continue to have a substantial advantage both because statutory increases in the amount of

annual earnings subject to social security tax have been much greater in recent years than in earlier years and because individual wage patterns differ widely from average wage patterns. As a result, an individual whose benefits are based on the average of his earnings over his two, three, or four highest years of earnings is likely to have a significantly higher benefit than an older worker who must average his highest ten or twenty or more years of earnings.

Furthermore, data provided to the committee by the Social Security actuaries show that both the average replacement by age group and the incidence of replacement rates over 80 percent of prior earnings are considerably greater among younger workers than older workers. The following table constructed from the actuaries' data show these situations:

TABLE 16.—DISTRIBUTION OF DI REPLACEMENT RATES BY AGE GROUP OF DISABLED WORKERS

	Total		Replacement rate brackets, 80 percent and higher, using high-5 yr of earnings in last 10 as base period for measurement [1] (percent)			Average replacement rate (percent)
	Number of cases	Percent	80 to 89	90 to 99	100 and over	
Age at onset:						
Under 20	64	100	23	6	22	72
20 to 24	574	100	15	2	9	60
25 to 29	698	100	19	2	4	59
30 to 34	652	100	11	1	1	57
35 to 39	714	100	8	3	3	59
40 to 44	889	100	5	2	3	54
45 to 49	1,232	100	3	2	2	49
50 to 54	1,699	100	2	1	2	47
55 to 59	1,965	100	2	1	1	44
60 to 64	1,098	100	1	1	1	41
Total	9,585					49

[1] Based on 1979 PIA levels.

Note: 9,585 cases in sample, including workers both with and without dependents.

Committee provision.—In response to concern that the benefit structure gives undue advantage to younger workers, the committee provision would exclude years of low earnings in the computation of benefits according to the following schedule:

Worker's age:	*Number of dropout years*
Under 32	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The provision applies to all disabled workers who first become entitled to benefits after 1979. The provision would not apply to individuals who join the benefit roll after the effective date of the provision, who were on the roll (or had a period of disability) at another time prior to calendar year 1980.

While the committee believes that fewer drop-out years for younger workers will make the benefit structure more equitable for younger and older disabled workers, the committee felt that all workers regardless of age should have at least 1 drop out year.

Approximately 120,000 DI awards, involving 290,000 beneficiaries, will be computed under the new dropout year provision in the first full year after enactment.

MEDICARE WAITING PERIOD

(Section 103 of the Bill)

Present law.—At the present time, beneficiaries of disability insurance must wait 24 months after becoming entitled to benefits to become eligible for medicare. If a beneficiary returns to work and then becomes disabled again, another 24-month waiting period is required before medicare coverage is resumed.

Committee bill.—The committee has heard testimony that the fear of being forced to wait for medicare coverage throughout a second 24-month waiting period has acted as a deterrent to some beneficiaries who might otherwise attempt to return to the work force. In order to remove this work disincentive, the committee bill would eliminate the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. The amendment would apply to workers becoming disabled again within 60 months, and to disabled widows, or widowers and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls, but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within those time periods. The provision would be effective for medicare benefits for services provided after June 1980. Approximately 30,000 persons are expected to be affected by this provision in the first full year after enactment.

EXTENSION OF MEDICARE COVERAGE FOR AN ADDITIONAL 36 MONTHS

(Section 104 of the Bill)

Present law.—Under present law medicare coverage ends when disability insurance benefits cease. Considerable testimony was given to the committee suggesting that this abrupt termination of medicare coverage poses a significant obstacle for many disabled workers to return to work, who are faced with the prospect of losing valuable hospital and other medical insurance coverage at a point when there is great uncertainty about their ability to sustain employment.

Committee bill.—In order to encourage disabled workers to attempt employment as well as to remove the possibility that incurring higher

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health insurance premiums might discourage employers from hiring the disabled, the committee provision would extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36-month period would be part of the new 24-month trial work period.) Approximately 30,000 persons are expected to be affected by this provision in the first full year after enactment.

C. Provisions Relating to Disability Benefits Under the SSI Program

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE MEDICAL IMPAIRMENT

(Section 201 of the Bill)

Present law.—The Social Security Act under present law uses an identical definition of disability for purposes of both the disability insurance program under title II of the Act and the SSI disability assistance program under title XVI of the Act.

The definition in the law reads as follows:

> SEC. 1614. (a) * * *
>
> (3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).
>
> (B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists 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 preceding sentence (with respect of any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.
>
> (C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.
>
> (D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earn-

> ings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (2), shall be found not to be disabled.

This definition does not establish any level of severity of an individual's medical condition as a test of whether or not he is disabled. Instead, the definition requires that there be present some medically determinable impairment and that that impairment be found to preclude the individual from engaging in "substantial gainful activity" (SGA). The concept of "substantial gainful activity" is, therefore, a key element in the definition of disability. Two individuals with identical medical conditions might properly receive different decisions as to whether or not they are disabled. Considering each individual's vocational background (education, experience, etc.), one may reasonably be found able to get a job at the substantial gainful activity level while the other may not.

The term "substantial gainful activity," is not defined in the statute. Rather, the Secretary of Health, Education, and Welfare is required to prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. These criteria have been expressed in regulations in the form of dollar amounts of earnings above which an individual would be presumed to be engaging in SGA, and therefore not disabled for purposes of the social security definition. The current SGA amount is $280 a month.

In recent years questions have been raised about the failure of the SSI program to remove individuals from disability status through rehabilitation and movement into employment.

A matter of particular concern is the fact that the program may operate in such a way as to actually discourage recipients from seeking employment. This work disincentive problem arises from the basic nature of the program which defines "disability" not by medical severity but rather, as noted above, in terms of incapacity for significant employment—substantial gainful activity. If an individual who has a very severe handicap does successfully perform any significant work activity, he has demonstrated that he no longer lacks the capacity for work. While he is permitted a trial work period during which he may continue to receive benefits, after this period he may be found ineligible. While his increased earnings will at least partially offset his loss of cash benefits, an SSI recipient may also face the loss of medicaid and social services since eligibility for those programs is generally tied to eligibility for at least one dollar of SSI benefits. Thus a severely disabled recipient contemplating the possibility of working may face a combined loss of benefits under the other programs which significantly outweigh the potential gain from earnings.

The committee is deeply concerned about these disincentive features because of the hardships they impose on severely disabled people who have the desire and motivation to seek a more independent life through work effort. At the same time, however, the committee is keenly aware that the disincentives to employment arise from the basic nature of the program as explained above. The committee feels it is necessary to move with great care in addressing those disincentives to avoid making unintended and undesirable changes in the fundamental scope and pur-

poses of the program. For this reason the committee cannot recommend the approach contained in the bill H.R. 3464 as passed by the House of Representatives.

The House-passed bill would have effectively and significantly liberalized the basic definition of disability under the SSI program by changing the definition of what constitutes substantial gainful activity. Under the House bill, an individual could be found "not disabled" on the basis of his earning capacity only if he were unable to earn as much as $481 for a single individual, and $690 for an eligible couple. (Any future automatic cost-of-living increases in the Federal SSI benefit would automatically increase the current basic SGA amounts.) These amounts would be further increased by the amount of any impairment-related work expenses. Thus the SGA level would vary from individual to individual depending on his impairment-related work expenses and on his marital status. A single individual with monthly expenses of $150 would have an SGA level of $631 a month or $7,572 a year. If this same individual had an eligible spouse his SGA level would be $840 a month or $10,080 a year.

The change in the definition of disability could change the program from one in which benefits are intended to be provided only for persons with disabilities severe enough to be generally considered as total or near-total disabilities into one in which benefits are also provided for partial disabilities. Thus, while the expressed intent of the House bill is to remove disincentives for severely disabled persons to seek independence through employment, its result could well be to increase dependency among less severely disabled individuals.

At the same time, the committee is convinced that ways can be found to remedy the work disincentive features of the disability programs without incurring the risks which seem to be inherent in the approach suggested by the House bill.

Committee bill.—Other sections of this bill include provisions which are aimed at responding to the work disincentive issues raised by current law in both the DI and SSI programs. These include provisions for extending the present trial work period from 9 months to 24 months, the exclusion of impairment-related work expenses in determining whether an individual is performing SGA, and for the authorization of experimental and demonstration projects by the Social Security Administration.

In addition, the committee bill includes an amendment, which, on a demonstration basis, provides that a disabled individual who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the cash benefit to be reduced to zero ($481 at the present time), the special benefit status would be terminated and the individual would not thereafter be eligible for any benefits under the program unless he could again establish his eligibility for SSI under the rules of existing law. Even though the individual would in said circumstances lose his special benefit status

for purposes of cash payments, he could retain eligibility for medicaid and social services, if the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to cotinue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. This provision allowing continuation of eligibility for medicaid and social services for persons whose earnings make them ineligible for cash benefits would also apply to SSI recipients who are blind. The committee provision would be limited to three years, to give the committee the opportunity to review the effectiveness of the provision. A provision is included in the committee amendment requiring the Social Security Administration to provide for separate accounting of any funds spent under the provision. This will enable both the Administration and the committee to evaluate the magnitude and the effect of the provision. Separate identification of these benefits would also serve to emphasize the intent that the provision not be administered as a change in the overall definition of disability.

The committee is convinced that the amendments it has recommended in this bill represent a very substantial answer to the problem of work disincentives for the severely disabled. At the same time, the committee emphasizes that the provisions of this bill are carefully designed to avoid unintended and undesirable results. The bill makes no change in the basic definition of disability nor in the way that definition is applied in determining initial eligibility. Thus, there can be no possibility that the bill will result in adding less severely disabled individuals to the benefit rolls.

The provision is effective only for the period July 1, 1980 through June 30, 1983. This will allow ample time to assess the success of the new provisions in reducing work disincentives and to consider any problems of administration which may arise.

TREATMENT OF EARNINGS IN SHELTERED WORKSHOPS

(Section 202 of the Bill)

Present law.—Under current interpretations, income received by an SSI recipient who is in a sheltered workshop as part of a rehabilitation program is not considered to be wages and is therefore treated as unearned income. As a result, all remuneration in excess of $20 a month reduces the SSI benefit on a dollar-for-dollar basis. In contrast, income of a recipient in a sheltered workshop who is not in a rehabilitation program is treated as earned income, and the individual is entitled to the earned income disregards ($65 per month plus one-half of additional earnings). It is estimated by the Department of Health, Education, and Welfare that there are approximately 5,000 individuals now in sheltered workshops who are not able to get the benefit of the earned income disregard provisions.

Committee bill.—The committee believes that participation by SSI recipients in vocational rehabilitation programs should be encouraged and that individuals who participate in sheltered employment as part of a rehabilitation program should be eligible for the work incentive features of the earned income disregards in the SSI law. The commit-

tee amendment would eliminate the present discriminatory treatment of these disabled individuals by providing that income received by SSI recipients as remuneration for participation in sheltered workshops be treated as earned income in all cases.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN DISABLED CHILD RECIPIENT OF BENEFITS ATTAINS AGE 18

(Section 203 of the Bill)

Present law.—For purposes of the SSI program, the term "child" is defined to include an individual age 18 through 21 who is a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment. Otherwise, all persons age 18 or over are treated as adults. The effect of the present definition, in combination with the provision requiring that the parents' income and resources must be deemed to a child under age 21 in determining the child's eligibility for SSI, may be to discourage a disabled individual between the ages of 18 and 21 from attending school or training. By attending school the individual must be considered a "child" under the SSI law, and the parents' income and resources are deemed to him. The result may be that he loses his SSI eligibility, or that the amount of the benefit is greatly reduced. By not attending school the individual is not considered a child, and only his own income and resources are countable for purposes of determining SSI eligibility.

Committee bill.—The committee believes that there is no logical basis for making this distinction between students and nonstudents for purposes of SSI eligibility, and that because of its potentially negative effects on incentives of disabled individuals for education and training, the provision of present law should be changed. Thus the committee bill would, in effect, eliminate any differential treatment of individuals on the basis of student status. Those individuals who on the effective date of the provision are age 18 and over and who are receiving benefits would be protected against any potential loss of benefits under a "grandfather" provision in the committee bill.

The committee provision should not affect significant numbers of SSI recipients. In June 1976 there were only about 18,000 individuals between the ages of 18 and 22 who were receiving SSI benefits, and many of these would not in any case be attending school. The committee expects that for some, however, the change in law will increase the likelihood of school attendance and that the provision will encourage disabled individuals to become self-sustaining.

D. Provisions Affecting Disability Recipients Under OASDI and SSI Programs

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

(Section 301 of the Bill)

Present law.—The 1965 social security amendments gave the Department of Health, Education, and Welfare the authority to use certain social security trust funds to reimburse State vocational rehabilitation

agencies for the cost of services provided to disability insurance beneficiaries. The amendments required the Secretary of HEW to develop criteria for selecting individuals to receive rehabilitation services under the beneficiary rehabilitation program. The criteria were to be based on the savings which would accrue to the trust funds as a result of rehabilitating the maximum number of individuals into productive activity. If the State rehabilitation agency certifies that a beneficiary meets these criteria, the cost of the rehabilitation services is borne by the trust funds.

The Department has developed four criteria for selecting beneficiaries to receive services financed from the trust fund. These are:

1. The disabling physical or mental impairment is not so rapidly progressive as to outrun the effect of vocational rehabilitation services or to preclude restoration of the beneficiary to productive activity.
2. The disability without the services planned is expected to remain at a level of severity resulting in the continuing payment of disability benefits.
3. A reasonable expectation exists that providing such services will result in restoring the individual to productive activity.
4. The predictable period of productive work is long enough that the benefits which would be saved and the contributions which would be paid to the trust funds from future earnings would offset the costs of planned services.

The title XVI legislation enacted in 1972 authorized the referral of blind and disabled recipients under the SSI program for rehabilitation services provided by State vocational rehabilitation programs. The legislation also authorized the use of general revenues to reimburse the State agencies for the cost of services provided to SSI recipients. Both the House and Senate reports on the SSI legislation state:

> Many blind and disabled individuals want to work and, if the opportunity for rehabilitation for suitable work were available to them they could become self-supporting.

In developing the SSI-vocational rehabilitation program, the Department of HEW followed the pattern of the disability beneficiary rehabilitation program for title II beneficiaries. Regulations implementing the program state that its purpose is:

> * * * to enable the maximum number of recipients to increase their employment capacity to the extent that * * * full-time employment, part-time employment, or self-employment wherein the nature of the work activity performed, the earnings received, or both, or the capacity to engage in such employment or self-employment, can reasonably be expected to result in termination of eligibility for supplemental security income payments, or at least a substantial reduction of such payments * * *.

In keeping with this statement of purpose, the SSI program uses the same four criteria for selecting individuals to receive reimbursed services as are used for selecting individuals under the DI program.

Under present law, persons who are participating in a vocational rehabilitation program are eligible for disability benefits only so long as they continue to meet the definition of disability for the DI and

SSI programs. Even in cases where continuation in a VR program might substantially improve an individual's chances of permanent productive employment, his disability benefits are ended when he is determined to have medically recovered, and as a result he may be forced to discontinue his participation in a rehabilitation program.

Committee bill.—The committee recognizes that a person's physical or mental impairment may sometimes improve to the extent that he may no longer meet the strict criteria required to be eligible for cash benefits, yet not to the extent that would constitute full recovery. In such situations, completion of a vocational rehabilitation program may make a significant difference in the ultimate degree of recovery and the level of productivity and self-sufficiency achieved by the disabled person. The committee bill would amend both the DI and the SSI statutes to provide that benefits under these programs shall not be terminated or suspended because the physicial or mental impairment on which the individual's entitlement to benefits is based has or may have ceased if (1) the individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and (2) the Secretary of HEW determines that the completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual may be permanently removed from the disability rolls. The committee expects that in most cases medical cessation of disability will result in the termination of benefits, as occurs now in all cases. The committee provision is intended to take into account those exceptional cases where the administration is able to determine that continuation in a vocational rehabiltation program will increase the likelihood of the individual's being permanently removed from the disabilty rolls.

DEDUCTION OF IMPAIRMENT-RELATED WORK EXPENSES IN DETERMINING SGA

(Section 302 of the Bill)

Present law.—Regulations issued under present law provide that in determining whether an individual is performing SGA, extraordinary expenses incurred by the individual in connection with his employment and because of his impairment are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. Regulations specify that expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.

Committee bill.—For purposes of both the disability insurance and supplemental security income programs, the committee bill would permit a deduction of costs of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity regardless of whether these items are also needed to enable him to carry out his normal daily functions. In addition, the bill provides that the deduction would apply where the disabled individual does not pay the cost of the impairment-

related work expenses (i.e., when the cost is paid by a third party), and adds language giving the Secretary the authority to specify in regulations the type of care, services, and items that may be considered necessary to enable a disabled person to engage in SGA. The amount of earnings to be excluded will be subject to such reasonable limits as the Secretary may prescribe. The committee intends that any such limits not be based on arbitrary conceptions of what amounts are reasonable but rather reflect actual prevailing costs of various categories of impairment-related expenses. Also, since the provision is meant to permit persons with impairment-related work expenses to continue to receive disability benefits even when they have earnings above the SGA level, the committee understands that "services" (the nature and value of the work) generally will not be the basis for determining that an individual has demonstrated an ability to engage in SGA if earnings after deducting allowable work expenses are below the SGA level.

EXTENSION OF THE TRIAL WORK PERIOD

(Section 303 of the Bill)

Present law.—Under present law, when an individual completes a 9-month trial work period, and then in a subsequent month performs work constituting substantial gainful activity (SGA), his benefits are terminated. He obtains benefits for the first month in which he performs SGA (after the trial work period has ended) and for the 2 months immediately following.

The committee is concerned that the present 9-month trial work period is insufficient as an incentive for disabled people to return to work, and wants this situation corrected. The abruptness of the termination of the trial work period forces people who work for some time and then, because of their impairment, must stop work, to refile an application and go through the lengthy determination process again. The committee believes the possibility of having to go through this process again poses a sizable impediment to disabled beneficiaries contemplating a return to work.

Committee bill.—For purposes of the DI program, the committee provision would extend the present 9-month trial work period to 24 months for both DI and SSI recipients. In the last 12 month of the 24-month period the individual would not receive cash benefits while engaging in substantial work activity, but could automatically be reinstated to active benefit status if a work attempt fails. The provision also provides that the same trial work period would be applicable to disabled widows, and widowers (who are not permitted a trial work period at all under existing law). The bill does not alter the aspect of present law in which benefits are paid for the month SGA is achieved and the 2 subsequent months, after a successful completion of the 9-month trial work period.

In addition the provision does not change the aspect of present law that a disability ceases if the individual no longer suffers from a severe impairment.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

(Section 304 of the Bill)

Present law.—The States and the Social Security Administration jointly administer the DI and SSI disability programs. The major responsibility for making disability determinations rests with the State agencies. SSA is responsible for setting administrative policy and for conducting oversight.

Until 1972 the Social Security Administration reviewed a majority of State allowances before they were actually made, thus providing preadjudicative review in most cases. As the result of pressures to reduce costs and staff levels, as well as to meet the pressures of a growing workload, SSA moved to a sample review procedure which involved only 5 percent of allowances. Moreover, these reviews have been made on a postadjudicative basis, that is, after the claimant has already been awarded his disability benefit. Similar sample reviews have been set up at the reconsideration and hearing stages of the process, and for the continuing disability review process.

The State agencies were confronted with very heavy workload increases in the first half of the 1970's, and particularly after the implementation of the SSI program. There is no question that in the minds of many administrators at both the Federal (SSA) and State agency levels the priority in this period was to be speed. Significant backlogs were accumulating at various places and various stages of the claims process, and it was considered important to expedite the process. Many now feel that the result was a decline in the quality of decisions which were being made.

One of the major criticisms that has been made by the existing determination process is that there is not uniformity of decisions and that different State agencies have been making decisions using different criteria. The assumption, thus, is that it is easier (or more difficult) to meet the disability definition depending on where you live.

As can be seen from the table that follows, State allowance rates vary substantially. In fiscal year 1978 initial disabled worker allowances ranged from 53.1 percent in New Jersey to 22.2 percent in Alabama.

TABLE 17.—INITIAL DISABLED WORKER ALLOWANCES AS PERCENT OF INITIAL DISABLED WORKER DETERMINATIONS—HIGH AND LOW STATES

Fiscal Year 1978

High third		*Low third*	
State:	*Rate*	State:	*Rate*
New Jersey	53.1	Alabama	22.2
Nebraska	52.1	New Mexico	22.4
Kansas	49.0	Louisiana	30.6
Wisconsin	48.6	Connecticut	32.4
Utah	48.4	Maryland	32.6
Iowa	47.9	Alaska	32.7
Delaware	47.6	Mississippi	34.1
Colorado	47.5	Arkansas	34.3
Vermont	46.5	Puerto Rico	35.2
Ohio	46.0	New York	35.3
South Dakota	45.7	Washington	35.3
Missouri	45.3	Michigan	35.4
Massachusetts	44.0	California	35.4
Maine	43.9	Idaho	35.8
North Carolina	43.6	Oregon	35.8
Nevada	43.6	Tennessee	36.0
Montana	43.3	New Hampshire	36.8
		Wyoming	36.8

Source: Social Security Administration.

Similarly, variations in allowance and denial rates occur at later stages of adjudication as well. The SSA administrative law judges (ALJ's) have frequently been criticized not only for their variations in productivity, but also for their variations in reversal rates. A person who requests a hearing may be assigned to what have been referred to as either "easy" or "hanging" judges. In the period January—March 1979, 33 percent of ALJs awarded claims to from zero to 46 percent of the disabled workers whose cases they decided, 46 percent of ALJs awarded claims to from 46 to 65 percent, and 21 percent of ALJs awarded claims to from 65 to 100 percent. Overall, the percentage of hearings that result in a reversal (an allowance of benefits) has been increasing. In fiscal year 1969 the title II disability reversal rate was 39 percent. It increased to 46 percent in 1973, and by 1978 had actually increased to more than half, or 52 percent of all cases. The SSI hearing reversal rate has increased from 42 percent in fiscal year 1975 to 47 percent in 1978.

The committee is concerned about these State-to-State, ALJ-to-ALJ variations and about the high rate of reversal of denials which occurs at various stages of adjudication, for it indicates that possibly different standards and rules for disability determinations are being used at the different locations and stages of adjudication.

DISABILITY ADJUDICATION PROCESS

[Calendar year 1978]

Level of decision	Number of decisions [1]	Allowances	Denials	Reversal rate
Initial decisions, total (including district office)	1,190,000	357,000	[2] 833,000	(70% denial rate)[2]
Initial decisions made by State agencies	905,000	357,000	548,000	(61% denial rate)
Reconsiderations	228,600	45,600	183,000	20%.
ALJ hearings	87,800	44,800	43,000	51%.
Appeals council	21,600	900	20,700	4%.
Federal courts	4,900	[3] 1,600	3,300	33%.[4]

[1] Includes all title II disability decisions—disabled worker, disabled widow(er)s and adults disabled in childhood.

[2] Includes all denials, made both by Social Security district offices and State disability agencies. 285,000 of these denials are technical denials (involving primarily lack of insured status) and do not require a determination of disability by a State agency.

[3] Includes 1,260 remands and 340 court allowances.

[4] Includes remands from Federal courts.

Source: Data provided by the Social Security Administration.

Committee bill.—The committee believes that while the Federal-State determination system generally works reasonably well (many State agencies do an excellent job), significant improvements in Federal management and control over State performance are necessary to ensure uniform treatment of all claimants and to improve the quality of decisionmaking under the Nation's largest Federal disability programs.

In order to strengthen Federal management, the committee provision would eliminate the current system of negotiated agreements between the Federal Government and the States, which gives the Secretary of Health, Education, and Welfare only general authority over the program, and which leaves great discretion to the States as to how the disability determination process is to be carried out. The bill would give the Secretary the authority to establish, through regulations, the procedures and performance standards for the State disability determination procedures. While regulations might specify, for example, administrative structure, the physical location of and relationship among agency staff units, the emphasis is expected to be on performance criteria, fiscal control procedures, and other rules designed to assure equity and uniformity in State agency disability determinations.

States would have the option of administering the program in compliance with these standards or turning over administration to the Federal Government. If a State wishes to make disability determinations with respect to only a portion of the applicant population, the committee bill would give the Secretary the discretion to agree to such an arrangement under such conditions as he determines to be appropriate. States that decide to administer the program must comply with standards set by the Secretary subject to termination by the Secretary if the State substantially fails to comply with the regulations and written guidelines.

The committee believes that this new Federal administrative authority will both improve the quality of determinations and ensure that claimants throughout the Nation will be judged under the same uniform standards and procedures, while preserving the basic Federal-State structure.

If a State elects not to continue administration or the Secretary terminates a State's administration because of substantial failure to comply with regulations, it is essential that there be adequate procedures to establish Federal administration. Two issues are of particular concern: the position of the State employees involved, and the potential disruption of the ongoing determination process which could create hardships for disability applicants.

Although the committee does not expect any widespread departure from traditional State administration of the disability determination process, it is prudent to prepare for this contingency. Even though under existing law States have the power to terminate agreements, the Department of HEW appears not to have done any extensive planning for Federal administration of State operations.

Thus, to stimulate Department planning and to inform the Congress as to what problems would be presented and possible means of alleviating them the provisions would require the Secretary to submit to the Congress, no later than July 1, 1980, a detailed plan on how

he expects to assume the functions and operations of a State disability determination unit should it become necessary. The bill further states that such a plan should assume the uninterrupted operation of the disability determination process, including the utilization of the best qualified personnel to carry out this function.

The provision also requires that recommendations for any amendments of Federal law or regulations required to carry out the plan should be submitted with the report.

In further response to concerns about the uniformity of decisions, the committee provision would have the effect, over time, of reinstituting the review procedure used by SSA until 1972. The committee provision provides for preadjudicative Federal review of at least 15 percent of allowances and denials in fiscal year 1981, 35 percent in 1982, and 65 percent in years thereafter. The requirement of reviewing at least a fixed percentage overall does not mean that this same percentage would apply in every State, nor every stage of adjudication; the committee would expect that the Social Security Administration will review a relatively higher or lower percentage of determinations where this is merited. The requirement that this percentage of reviews be made prior to effectuation of the decision is not intended to preclude other reviews the Secretary may find appropriate either before or after effectuation nor actions he may take as a result of such other reviews.

Under the committee bill, the Secretary would have the authority to revise State agency decisions that are unfavorable to the claimant. Under present law, the Secretary is permitted only to revise favorable decisions of disability or establish a later date of onset of disability.

Although the language of the bill pertains only to the DI program, the committee expects that the review procedures implemented by SSA will be applied equally to both the DI and SSI programs, since the disability determination is, for the most part, the same for both programs. However, the specific percentage goals would have to be met only for the title II program.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

(Section 305 of the Bill)

Present law.—Notices to claimants regarding the Secretary's decision on their claim for disability benefits provide little guidance as to the causes for a denial.

Complaints about the content of denial notices have been voiced for a long time. It is felt that the brief form letter which constitutes the notice does not provide the individual who has been denied benefits with enough of the particulars of his case to provide assurance that his case has been decided fairly.

Committee bill.—The committee provision would require that notices be provided to denied claimants expressed in language understandable to the claimant, which include a discussion of the evidence of record and the reasons why the disability claim is denied. This will add a number of positive factors to the adjudication process. The State agency decision will be on a sounder base because the examiner

will be required to formulate the reasons for his decision in written form and the claimant may be less likely to appeal the decision if he understands how the law relates to his particular case.

It is not the intent of the committee that the denial notification be a voluminous document. Further, the statement of the case should not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter, it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.

LIMIT ON PROSPECTIVE EFFECT OF APPLICATION

(Section 306 of the Bill)

Present law.—Present law provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. One consequence of this provision is that the claimant is afforded a continuing opportunity to establish eligibility until all levels of administrative review have been exhausted, i.e., until there is a final decision. Thus, a claimant can continue to introduce new evidence at each step of the appeals process, even if it refers to the worsening of a condition or to a new condition that did not exist at the time of the initial application. This is frequently referred to as the "floating application" process.

Committee bill.—The committee bill provides for foreclosing the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative law judge (ALJ) hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect. The committee bill makes this change on a statutory basis only in title II inasmuch as title XVI, unlike title II, does not specify the period of validity for an application but leaves that matter to be determined through regulations. Since the two programs are administered jointly, however, the committee would expect the same rule to be followed in both SSI and DI.

The committee further understands that SSA plans to experiment with the use of an SSA representative to present and defend the reconsideration decision at the hearing. The committee has been told that this new proceeding will create greater uniformity and consistency in administrative law judge (ALJ) decisions and will result in faster, better decisions. It also will ensure that the ALJ is restricted to a judgmental role. At present, the ALJ must conduct the Government's case, assist the claimant, and then decide the outcome of the appeal.

The committee supports SSA's plans to test this approach. It understands that these hearings will be conducted in compliance with the Administrative Procedure Act.

The committee anticipates that the administration would provide the committee with full information on the results of the experiment, including the potential effects on administrative and benefit expenditures, before any decision is made to implement the new "adversary proceeding" nationally.

MODIFICATION OF SCOPE OF FEDERAL COURT REVIEW AND LIMITATION OF COURT REMANDS

(Section 307 of the Bill)

Present law.—Review of a case by the Appeals Council of the Office of Hearings and Appeals is the final recourse a claimant has within the administrative review process of the Social Security Administration if he is dissatisfied with the disposition of his case. However, increasing reversal of the Agency's final decision is being pursued in a U.S. district court.

The number of appeals filed with Federal district courts has grown dramatically in the last decade. As is the situation of the workload of the Office of Hearings and Appeals, the vast majority of the court cases involve disability. Between 1955 and 1970, the number of disability appeals filed with Federal district courts totaled slightly under 10,000 cases for the entire period. Currently there are approximately 15,000 DI and SSI disability cases pending in the Federal court system.

The statutory base underpinning the scope of judicial review of determinations made by the Agency is found in section 205(g) of the Social Security Act:

> The Court shall have power to enter, upon the pleadings, and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a hearing. The findings of the Secretary as to any fact, *if supported by substantial evidence*, shall be conclusive, * * * (emphasis supplied)

In theory, the "substantial evidence rule" imposed on the courts contrasts the review at that level with those conducted within the administrative process of the Social Security Administration in which cases are reviewed "de novo." Complaints have long been made by the Social SecurityAdministration and others that the courts have frequently by-passed the substantial evidence rule by substituting their judgment of the facts for those of agency adjudicators.

In addition to concern about the growth of the courts' workloads and adherence to the substantial evidence rule, concern has been expressed about the Secretary's authority, on his own motion, to remand a case back to an ALJ prior to filing his answer in a court case.

Some critics have suggested that such absolute discretion gives the Secretary potential authority to remand cases back so that they can be strengthened to sustain court scrutiny. Others have suggested that such a device also may have the tendency to lead to laxity in appeals council review in that it will give the council another look at the case if the claimant decides to go to court.

Similarly, under existing law the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ. It would appear that, although many of these court remands are justified, some remands are undertaken because the judge disagrees with the outcome of the case even though he would have to sustain it under the "substantial evidence rule." Moreover, the number of these court remands seems to be increasing.

Committee bill.—The committee provision would modify the scope of Federal court review so that the Secretary's determinations with respect to facts would be final, unless found to be arbitrary and capricious. The committee intends that the courts should apply this test strictly and not use it as a means of substituting the judgment of the court for the judgment of an administrative law judge as to evidentiary adequacy. The substantial evidence requirement would be deleted. This would apply to decisions under both the OASDI and SSI programs. The committee provision also would eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the court to the Secretary upon motion by the Secretary. Instead, remand requested by the Secretary would be discretionary with the court, and only on motions of the Secretary where "good cause" was shown. The bill would continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but adds the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

(Section 308 of the Bill)

Present law.—Under present law and regulations there is no limit on the time taken by the Social Security Administration to adjudicate cases at any stage of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

Committee bill.—The committee provision requires the Secretary of HEW to submit a report to Congress no later than July 1, 1980, recommending appropriate time limits for the various levels of adjudication.

The provision requires the Secretary in recommending the limits to give adequate consideration to both speed and quality of adjudication. The Secretary's recommendations also should reflect the requirement added by this bill for Federal review of State allowances and denials. Congress could then evaluate the recommendations for consistency with the elements it wishes to emphasize and, if needed, take further action next year.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

(Section 309 of the Bill)

Present law.—Under present law, authority does not exist to pay physicians and other potential sources of medical evidence for medical information already in existence when a claimant files an application for disability insurance benefits. Such authority does exist in the SSI program.

The committee believes that information needed to adjudicate cases could be obtained more expeditiously, and possibly avoid the need for further medical consultative examinations, if existing potential suppliers of information could be reimbursed for making their information available.

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Committee bill.—The committee bill provides that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employment of the Federal Government, which supplies medical evidence requested and required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

PAYMENT OF CERTAIN TRAVEL EXPENSES

(Section 310 of the Bill)

Present law.—Under present law, explicit authority does not exist under the Social Security Act to make payments from the trust funds, to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations, and to applicants, their representatives, and any reasonably necessary witnesses for travel expenses incurred to attend reconsideration interviews and proceedings before administrative law judges. Such authority now is being provided annually under appropriation acts.

Committee bill.—The committee bill provides permanent authority for payment of the travel expenses of individuals (and their representatives in the case of reconsideration and ALJ hearings) resulting from participation in various phases of the adjudication process.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

(Section 311 of the Bill)

Present law.—Under present administrative practices the State agency not only has the function of deciding who comes on the disability rolls, it must also make determinations as to whether individuals stay on the rolls.

There is, however, no requirement for periodic redetermination of disability for all or even a sizable proportion of persons who are receiving disability benefits. The Social Security claims manual instructs State agencies on certain kinds of cases that are to be selected for investigation of continuing entitlement to disability benefits by means of a medical diary procedure. The agencies are cautioned that most allowed cases involve chronic, static, or progressive impairments subject to little or no medical improvement. In others, the manual further states that even though some improvement may be expected, "the likelihood of finding objective medical evidence of 'recovery' has been shown by case experience to be so remote as not to justify establishing a medical reexamination diary." In general, according to the claims manual, case are to be "diaried" for medical reexamination only if the impairment is one of 13 specifically listed impairments.

The high degree of selectivity used in designating cases for medical reexamination is illustrated by the following statistics for title II. In 1977, there were about 2.7 million disabled workers in current pay status. The number of continuing disability investigations (CDIs) in that year for disabled workers was only about 165,000. Numerous critics, including many within the Social Security Administration, believe that the highly selective diary criteria and other continuing

review procedures are inadequate and result in the continued payment of benefits to many persons who have medically or otherwise recovered from their disability.

Committee bill.—The committee provision provides that there will be a review of the status of disabled beneficiaries whose disability has not been determined to be permanent at least once every three years. This review is not intended to supplant the existing reviews of eligibility that are already being conducted such as those under the current "diary" procedures. Moreover, the committee expects that even cases where the initial prognosis shows the probability that the condition will be permanent will be subject to periodic review, although not necessarily every three years in selective circumstances. The committee believes that such procedures should be applied on the same basis to the DI and SSI programs.

E. Provisions Relating to AFDC and Child Support Programs

AFDC WORK REQUIREMENT

(Section 401 of the Bill)

Present law.—Adult members of AFDC families who are capable of employment are required to register for participation in the work incentive (WIN) program established under title IV–C and to accept training or employment offered through that program. Federal funding for the WIN program, including the costs of necessary supportive services, is provided at a 90-percent matching rate. This program is subject to annual appropriations and is presently funded at a level of $365 million.

The work incentive program was originally enacted by Congress in 1967 with the purpose of reducing welfare dependency through the provision of manpower training and job placement services. In 1971 the Congress adopted amendments aimed at strengthening the administrative framework of the program and at placing greater emphasis on immediate employment instead of institutional training, thus specifically directing the program to assist individuals in the transition from welfare to work.

The 1971 amendments required that all persons at least 16 years of age and receiving AFDC benefits must register for WIN, unless caretaker of a child under age, legally exempt by reason of health, disability, needed in the home, advanced age, student status, or geographic location. Registrants selected for participation in WIN must accept available jobs, training, or needed services to prepare them for employment. Refusal to do so without good cause will result in termination of their AFDC payments.

Since these amendments were enacted, there has been a significant increase in the number of persons placed in employment with resultant savings in AFDC funding. In fiscal year 1976, 158,000 WIN registrants entered employment. Of these, 87,000 individuals, plus the children of these individuals, went off of welfare completely as a result of sufficiently high earnings. In fiscal year 1978, 235,000 WIN registrants entered employment, an increase of 49 percent over 1976, with 136,200 of these individuals and their families going off welfare, an increase of 30 percent over 1976. The table below provides additional data on the WIN program.

TABLE 18.—WORK INCENTIVE PROGRAM DATA, FISCAL YEARS 1971–78

Category	1971	1972	1973	1974	1975	1976	1977	1978
Registrations: in year		120,539	1,235,048	820,126	839,408	942,260	1,060,739	1,013,247
Entered employment:								
Full time	50,444	60,310	136,783	177,271	170,641	211,185	245,566	254,191
Part time						19,680	31,988	39,399
Welfare cost savings (millions)				$129.3	[1] $212.4	[1] $297.0	Over $400	600
Program expenditures (millions):								
Total					$276.7	$303.7	$376	$364
Employment service					205.9	196.2	258	247
Welfare agency					70.8	107.6	117	117

[1] Calendar year data.

Source: U.S. Department of Labor.

Committee bill.—Despite growing success in placing AFDC recipients in employment, the committee believes that the present statutory requirements should be strengthened in such a way as to provide additional encouragement for welfare recipients to move into employment. The committee further believes that AFDC recipients who are able to work should be required to actively seek employment and that this should be made explicit in the law. The committee amendment therefore would amend title IV–A to provide that AFDC recipients who are not excluded from WIN registration by law will be required, as a condition of continuing eligibility for AFDC, to participate in the full range of employment-related activities which are part of the WIN program, including employment search activities. The Employment and Training Administration of the Labor Department estimates that if States elected to use employment search as a primary activity, over 200,000 WIN registrants could participate in such activities and that 31 percent would be retained in employment. The committee anticipates that with such an employment search requirement, substantial numbers of AFDC recipients will find jobs and welfare costs will be reduced.

The employment search mandated by the committee amendment is not to be mechanically applied to require every individual to make a specific number of employment contacts. Rather, the term is to be interpreted to mean those activities determined by the State agency to be appropriate for WIN registrants to undertake to actively seek employment. Employment search activities are intended to be supported by necessary services. Thus the amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment and, for a period thereafter, as are necessary and reasonable to enable him to retain employment. For example, transportation costs which are necessary for employment search would be covered, as would the costs of necessary child care. However, the committee expects the program to be so managed that the need for child care will be minimized.

Under present law State matching for supportive services must be in the form of cash. The committee amendment would make it easier for the State to provide the required 10 percent State matching by allowing matching in the form of inkind goods and services.

The amendment would provide for locating supportive services together with manpower services to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be terminated, and authorize the Secretaries of Labor and HEW to establish the period of time during which an individual will not be eligible for assistance in the case of a refusal without good cause to participate in a WIN program or accept employment. The amendment also clarifies the treatment of earned income derived from public service employment, and adds to those excluded from the work registration requirement, individuals who are working at least 30 hours a week.

MATCHING FOR AFDC ANTIFRAUD ACTIVITIES

(Section 402 of the Bill)

Present law.—In fiscal year 1977 States reported 183,190 AFDC cases in which there was a question of fraud sufficient to require in-

vestigation of the facts involved. This was 10 percent above the number reported for 1976. Although data are too sketchy to conclude that there has recently been any significant increase in the incidence of fraud, there has been increasing emphasis by the States on the prevention, deterrence, detection, referral for prosecution, and recovery of overpayments in cases involving questions of fraud. Despite this increased activity on the part of the States, a number of problems have been cited in State efforts to deal with welfare cases involving the question of recipient fraud. The 1977 fiscal year report by the Department of Health, Education, and Welfare on the "Disposition of Public Assistance Cases Involving Questions of Fraud" includes a discussion of comments made by State welfare agencies on trends and developments in antifraud programs during the year. Comments include the observation that the statute of limitations frequently is a cause for the dismissal of cases, which indicate backlogs. It was also noted that better preparation of cases referred to law enforcement agencies results in more prompt indictments and/or convictions. A report for the prior year includes the following analysis of State activities:

> Inadequate staffing is a major problem plaguing the identification of cases which involve an intent to defraud, and those which represent overpayments of illegal receipt of assistance. It also affects the actual gathering of essential information for appropriate preparation of information to prove fraud cases for presentation to prosecuting attorneys. Local law enforcement agencies also suffer from staff shortages, resulting in complaints from some States of inaction by county prosecutors on cases which Welfare Board Officials feel should be prosecuted; of long time lapses between referral by prosecuting officers and action taken on cases due to backlog of all criminal cases; and of prosecutors placing a higher priority on the prosecution of crimes other than welfare fraud because of a lack of prosecutors.

Recently there has been increased emphasis in the Department of Health, Education, and Welfare on activities to curb fraud in welfare programs. The committee endorses this emphasis, and expects that the Department will continue to improve the administration of its programs through more rigorous efforts to limit program abuse. The committee realizes, however, that it is the States that must bear the major burden of conducting antifraud activities. At the present time, they are entitled to Federal matching for antifraud activities as part of their regular administrative expenditures, at a 50-percent matching rate.

An analysis of quality control data shows that over 6 percent of all AFDC cases are fraudulent while 11 percent of the cases in error are nonfraudulent. The fraud cases represent 50 percent of the total dollar errors (AFDC, food stamps and medicaid). The average fraud case has a $281 total dollar error compared to $149 per nonfraud case. It is apparent that concentrating on reducing fraud cases would be of great economic value to the Government.

Committee bill.—The committee believes that the new concern for curbing fraud and abuse in welfare programs which has recently been demonstrated by the administration and by the Department of Health, Education, and Welfare should have the effect of further

encouraging the States to pursue the identification and prosecution of fraud. The committee believes, however, that the States should be given positive assistance to accomplish this. The committee amendment therefore would increase the matching rate to 75 percent for State and local AFDC antifraud activities for costs incurred (1) by the welfare agencies in the establishment and operation of one or more identifiable fraud control units; (2) by attorneys employed by the State or local welfare agencies (but only for the costs identifiable with the AFDC antifraud activities); and (3) by attorneys retained under contract (such as the office of the State attorney).

USE OF IRS TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

(Section 403 of the Bill)

Present law.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the State has made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health, Education, and Welfare, or his designee. There must also be an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary of HEW in consultation with the Secretary of Treasury, is authorized to establish by regulation criteria for accepting amounts for collection and for making certification, including imposing limitations on the frequency of making certifications.

This provision for using the IRS in child support collections has been used very sparingly by the States. It is, however, recognized as an integral part of the child support collection process which can be used after other efforts to collect delinquent child support payments have proved ineffective.

Committee bill.—The committee has been informed that a number of States believe their child support programs would be strengthened if the IRS collection procedures which are now available for collections in behalf of families receiving AFDC were also available for families receiving State child support services who have not applied for welfare payments. The committee bill would extend IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

SAFEGUARDING INFORMATION

(Section 404 of the Bill)

Present law.—Present law provides in part that State plans under title IV–A (AFDC) include safeguards which prevent disclosure of the name or address of AFDC applicants or recipients to any committee or a legislative body. HEW regulations include Federal, State, or local committees or legislative bodies under this provision. Under

their guidelines, HEW exempts audit committees from this exclusion. Several States, however, do not honor the HEW exemption.

Committee bill.—The committee amendment would modify the law to clarify that any governmental agency (including any legislative body or component or instrumentality thereof) authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. The amendment would make similar changes with regard to audits under title XX of the Social Security Act.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

(Section 405 of the Bill)

Present law.—The child support and establishment of paternity program, enacted at the end of the 94th Congress as title IV–D of the Social Security Act, mandates aggressive administration at both the Federal and State levels with various incentives for compliance and with penalties for noncompliance. The program includes child support enforcement services for both welfare and nonwelfare families. The child support enforcement program leaves basic responsibility for child support and establishment of paternity to the States, but provides for an active role on the part of the Federal Government in monitoring and evaluating State child support enforcement programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them.

The legislation creating the child support program requires each State to have a program of child support collection and paternity establishment services for both AFDC and non-AFDC families administered by a single and separate organizational unit within the State under a separate State plan for child support administered separately from other State plans. The States administer the child support program through separate child support agencies, popularly referred to as IV–D agencies. Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. The law specifically requires the entering into of financial arrangements with such courts and officials in order to assure optimum results under the child support program and with respect to any other matters of common concern to the courts and the child support agency. Federal regulations are now written in such a way as to allow States to claim Federal matching for the compensation of district attorneys, attorneys general and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for or in connection with judges or other court officials making judicial decisions, and other supportive and administrative personnel.

In the first 47 months of the child support program (August 1975 through June 30, 1979), States have reported total collections of over $3.6 billion of which $1.6 billion was for AFDC families and $2.0

billion was for families not on welfare, at a total cost of $1.0 billion or 28 cents per dollar collected.

In the first 47 months of the child support enforcement program, 1,573,000 absent parents were located; there were 970,000 support obligations established; and paternity was established by the courts for 323,000 children.

The heavy impact on the court systems of the cities, counties, and States is apparent from statistics showing the tremendous increase in child support activity in these areas since the program's inception in 1976. In fiscal year 1976, 184,000 parents were located. The number of parents located in fiscal year 1978 was 519,000, an increase of 182 percent in 2 years. In fiscal year 1976, 76,000 support obligations were established. The number of support obligations established in fiscal year 1978 was 350,000, an increase of 361 percent in 2 years. In fiscal year 1976 15,000 paternities were established. The number of paternitie established in fiscal year 1978 was 123,000, an increase of 820 percent in just 2 years.

Table 19 compares the monthly number of child support actions with the number of new AFDC "unwed mother" cases opened each month. It is quite apparent that, except for California, the number of "unwed mother" AFDC cases opened every month far exceeds the child support actions to establish paternity in AFDC cases.

Table 20 compares the number of parents located by the child support program with the number of AFDC cases opened each month. Despite the fact that several large States fall far below the national norm, it is evident that the parent location activity in most States is effectively reducing the backlog of existing AFDC "desertion" cases as well as acting on new cases as they are approved for AFDC benefits.

Table 21 shows the projected backlog of paternity and location cases not yet acted upon by the child support agency because the AFDC worker has not made the required referral action to the child support agency.

Table 22 shows that the average duration in AFDC cases where the AFDC worker has not made the required referral action to the child support agency is 58 months.

The success of the child support program in locating absent parents and having the paternity of children established is gratifying to the committee, although the committee realizes that there is an enormous task still ahead for child support. But even this first push to solve the problems which child support agencies are required to do under present laws has created a tremendous backlog of cases awaiting court action in some States. The committee staff estimates that just in the area of paternity determination by courts there are over 150,000 cases in the courts awaiting action. In the city of Philadelphia, Pa., there are over 30,000 cases for paternity establishment awaiting court action. The committee is concerned that this backlog exists in one of the key elements of the child support program.

Committee bill.—The committee amendment would allow Federal matching for those additional costs of the IV–D program not provided for under current regulations. Matching would cover expenditures (including compensation) for judges or other persons making judicial determinations, and other support and administrative personnel of the courts who perform IV–D functions, but only for those functions spe-

cifically identifiable as IV–D functions. Matching would be paid by the State agency directly to the courts if the State so provided. Current levels of spending ir the State for these newly matched activities would have to be maintained. No matching would be available for expenditures incurred before January 1, 1980.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

(Section 406 of the Bill)

Present law.—There is increasing evidence that administration of State welfare programs could be significantly improved if States establish and use computerized information systems in the management and operation of their programs. The committee has approved, as another provision of this bill, an amendment to provide States with increased Federal matching for such systems for use in administering their AFDC programs. That amendment would increase the rate of matching to 90 percent for the costs of developing and implementing AFDC systems and to 75 percent for the costs of operating them. These percentages correspond to the matching that is available to the States for use in their medicaid programs.

At the present time, States and localities that wish to establish and use computerized information systems in the management of their child support programs are eligible to receive 75 percent matching of their expenditures. This is the percentage matching which they receive for all costs of administering the child support program.

Committee bill.—The committee believes that States should be encouraged to develop and use management information systems for all programs in their welfare systems in order to provide better management of their programs and to expedite coordination among programs and across jurisdictions. The committee believes that the child support program is vital to the success of each State's welfare system and improvements in its operation should also be encouraged. The committee bill therefore would provide an incentive to State child support enforcement agencies to develop new systems, to expand or enhance their existing systems, or to utilize model systems developed by HEW's Office of Child Support Enforcement by increasing the rate of matching to 90 percent for the costs of developing and implementing the systems. The cost of operating such systems would continue at the 75 percent matching rate.

Under the amendment, the Office of Child Support Enforcement, Department of Health, Education, and Welfare, would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. (Continuing review of the State systems would also be required.)

To qualify for HEW approval, the system would have to meet specific requirements, including capacity to account for child support collections and distributions; handle billing, monitoring and enforcement; provide management information; provide for cross-checking with AFDC records; handle interstate activity; provide necessary data for Federal statistical reporting requirements; and assure security against unauthorized access to, or use of, the data in the system.

Such approval would be based on the Secretary's finding that the initial and annually updated advanced automatic data processing document, which each State must have, will, when implemented, generally carry out the objectives of the management system. Such a document would provide for the conduct of, and reflect the results of, requirements analysis studies, contain a description of the proposed management system, indicate the security and interface requirements in the system, describe the projected and expected to be available resource requirements for staff and other needs, contain an implementation plan and backup procedures to handle possible failure, contain a summary of the system in terms of qualitative and quantitative benefits and provide such other information as the Secretary determines under regulation is necessary.

AFDC MANAGEMENT INFORMATION SYSTEM

(Section 407 of the Bill)

Present law.—There is increasing evidence that administration of the AFDC program could be significantly improved if States establish and use computerized information systems in the management of their programs. Such systems have been demonstrated to be helpful in program planning and evaluation. They also make day-to-day operations more efficient, and they are crucial to assuring that eligibility determinations are properly made and that fraud and abuse are discovered on a timely and ongoing basis. Although the merits of such systems are generally recognized, the States have been slow to develop them because of the large initial outlays which are necessary, and because of the ongoing cost of operating them. States may currently receive Federal matching for the systems as an administrative cost, but Federal matching is limited to 50 percent. This is in contrast to the medicaid program, in which 90 percent Federal matching is authorized for the cost of developing and implementing computer systems, and 75 percent for their operation.

Committee bill.—The committee is convinced that the administration of State AFDC programs could be greatly improved through judicious use of modern computerized management information systems. Recipients could be expected to benefit from more expeditious handling of their cases and decreases in processing time; local, State, and Federal Governments—and the taxpayer—could be expected to benefit from a decrease in costs because of a reduction in errors and use of better planning and management techniques.

Thus, the committee amendment would provide an incentive to the States to develop and expand their existing systems by increasing the rate of matching to 90 percent for the costs of developing and implementing the systems and to 75 percent for the costs of operating them, provided the system meets the requirements imposed by the amendment. (The increased matching would be applicable to existing systems if they meet the criteria for approval of new systems.)

Under the committee amendment, the Department of Health, Education, and Welfare would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. (Continuing review of the State systems would also be required.) To qualify for HEW

approval, the system would have to have at least the following characteristics: (1) ability to provide data concerning all AFDC eligibility factors; (2) capacity for verification of factors with other agencies through identifiable correlation factors such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes); (3) ability to control and account for the costs, quality and delivery of funds and services furnished to applicants and recipients; (4) capability for notifying child support, food stamp, social service, and medicaid programs of changes in AFDC eligibility or benefit amount; and (5) security against unauthorized access to or use of the data in the system.

In approving systems, the Department would have to assure sufficient compatibility among the other public assistance, medicaid, and social services systems in the States and among the AFDC systems of different jurisdictions to permit periodic screening to determine whether an individual was drawing benefits from more than one jurisdiction and for determination of eligibility and payment pursuant to requirements imposed by other sections of the Social Security Act.

Such approval would be based on the Secretary's finding that the initial and annually updated advanced automatic data processing document, which such State must have, will, when implemented, generally carry out the objectives of the statewide management system. Such a document would provide for the conduct of and reflect the results of requirements analysis studies, contain a description of the proposed statewide management system, indicate the security and interface requirements in the system, describe the projected and expected to be available resource requirements for staff and other needs, include cost-benefit analyses of each alternative management system, data processing services and equipment and a plan showing the basis for both indirect and direct rates to be in effect, contain an implementation plan to handle possible failure of contingencies, and contain a summary of the system in terms of qualitative and quantitative benefits.

EXPENDITURES FOR OPERATION OF STATE PLANS FOR CHILD SUPPORT

(Section 408 of the Bill)

Present law.—Present law requires that the Federal Office of Child Support Enforcement maintain adequate records for both AFDC and non-AFDC families of all amounts collected and disbursed and the costs incurred in collecting and disbursing these amounts and publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. The Office of Child Support Enforcement must also submit an annual report to the Congress on all activities undertaken in the child support program as well as the major problems encountered at Federal, State, or local levels which have delayed or prevented implementation of the child support program.

Present law also provides that the State will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate reporting system is required. The committee is aware that some States are delinquent in their

recordkeeping and reporting, and believes that this situation must be corrected.

Committee bill.—The committee has been concerned about the failure of some States to report and account for child support collections for AFDC and non-AFDC families on a reasonable, timely basis. The committee amendment thus would improve State reporting by prohibiting advance payment to the State of the Federal share of administrative expenses for a calendar quarter unless it has submitted a full and complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. The amendment would also allow the Department of Health, Education, and Welfare to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

ACCESS TO WAGE INFORMATION FOR CHILD SUPPORT PROGRAMS

(Section 409 of the bill)

Present law.—Under title IV–D of the Social Security Act, States are required to establish special child support agencies to establish paternity and obtain support for any child who is an applicant for or recipient of AFDC. These State agencies must also provide child support services to non-AFDC families, if they apply for child support services. HEW regulations require the State agencies to establish and to periodically review the amount of the support obligation, using the statutes and legal processes of the State.

Committee bill.—The committee bill would improve the capacity of the child support enforcement agency in the State to acquire accurate wage data by providing authority for States and localities to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies. Such information would be obtained by a search of wage records conducted by the Social Security Administration or the employment security agency to identify the fact and amount of earnings and the identity of the employer in the case of individuals who were parents of the children for whom the child support agency was collecting or enforcing support. The Secretary of Health, Education, and Welfare would be authorized to establish necessary safeguards against improper disclosure of the information.

The committee bill specifically authorizes the Social Security Administration to disclose certain tax return information to State and local child support agencies. The information may be used by them for purposes of the child support enforcement program.

TABLE 19.—CHILD SUPPORT CASES OF "PATERNITY ESTABLISHED" PER MONTH COMPARED TO AFDC "UNWED MOTHER" CASE OPENINGS, JULY TO DECEMBER 1977

State	Child support paternity established cases [1]	AFDC unwed mother cases opened [2]	Paternity established cases as percent of cases opened
Alaska	0	47	0.9
Arizona	24	355	6.7
Arkansas	312	501	62.3
California	1,182	934	126.6
Colorado	95	493	19.2
Connecticut	214	558	38.3
Florida	557	1,664	33.5
Georgia	211	1,232	17.1
Hawaii	61	271	22.3
Idaho	3	84	4.0
Illinois	113	3,327	3.4
Indiana	171	803	21.3
Kansas	43	356	12.2
Kentucky	31	922	3.3
Louisiana	84	1,369	6.2
Maryland	525	1,295	40.5
Massachusetts	102	895	11.3
Michigan	547	1,654	33.1
Minnesota	104	682	15.3
Mississippi	68	624	10.9
Montana	6	149	3.8
Nevada	18	92	19.4
New Hampshire	4	126	2.8
New Jersey	625	2,170	28.8
New Mexico	14	242	5.9
New York	1,335	3,221	41.5
North Carolina	427	1,387	30.8
North Dakota	23	100	23.3
Ohio	192	2,341	8.2
Oklahoma	3	450	.6
Oregon	127	550	23.2
Pennsylvania	401	2,438	16.4
South Dakota	9	116	7.5
Tennessee	423	909	46.5
Texas	18	1,872	1.0

See footnotes at end of table.

TABLE 19.—CHILD SUPPORT CASES OF "PATERNITY ESTABLISHED" PER MONTH COMPARED TO AFDC "UNWED MOTHER" CASE OPENINGS, JULY TO DECEMBER 1977—Con.

State	Child support paternity established cases [1]	AFDC unwed mother cases opened [2]	Paternity established cases as percent of cases opened
Utah	14	127	10.9
Vermont	7	57	13.0
Washington	24	581	4.2
West Virginia	13	317	4.1
Wyoming	2	47	3.4
U.S. total	8,132	35,358	23.0

[1] Office of Child Support Enforcement.
[2] Projected from AFDC quality control estimates.

TABLE 20.—CHILD SUPPORT CASES OF "PARENT LOCATED" PER MONTH COMPARED TO AFDC "DESERTION" CASE OPENINGS, JULY TO DECEMBER 1977

State	Child support parents located cases [1]	AFDC desertion cases opened [2]	Parents located cases as percent of cases opened
Alaska	148	47	315.8
Arizona	630	186	338.7
Arkansas	529	269	196.5
California	4,575	467	979.6
Colorado	752	378	198.8
Connecticut	782	381	205.2
Florida	2,085	789	264.2
Georgia	830	653	127.1
Hawaii	490	178	275.3
Idaho	38	105	36.1
Illinois	1,011	1,634	61.9
Indiana	689	265	259.9
Kansas	528	246	214.6
Kentucky	218	753	29.0
Louisiana	244	547	44.6

See footnotes at end of table.

TABLE 20.—CHILD SUPPORT CASES OF "PARENT LOCATED" PER MONTH COMPARED TO AFDC "DESERTION" CASE OPENINGS, JULY TO DECEMBER 1977—Continued

State	Child support parents located cases [1]	AFDC desertion cases opened [2]	Parents located cases as percent of cases opened
Maine	99	246	40.3
Maryland	1,564	978	159.9
Massachusetts	588	1,016	57.9
Michigan	2,364	1,193	198.1
Minnesota	226	274	82.6
Mississippi	392	281	139.4
Montana	113	84	134.0
Nebraska	92	112	82.4
Nevada	224	26	860.9
New Hampshire	81	144	56.5
New Jersey	2,732	1,669	163.7
New Mexico	247	126	195.6
New York	4,924	3,462	142.2
North Carolina	1,184	659	179.7
North Dakota	77	35	219.0
Ohio	1,349	1,066	126.6
Oklahoma	280	404	69.2
Oregon	1,603	533	300.7
Pennsylvania	593	1,896	31.3
South Dakota	5	98	5.4
Tennessee	398	479	83.2
Texas	865	1,268	68.2
Utah	372	188	197.7
Vermont	25	88	27.8
Washington	851	564	150.9
West Virginia	108	300	35.9
Wyoming	212	21	1,007.9
U.S. total	35,115	24,108	145.6

[1] Office of Child Support Enforcement.
[2] Projected from AFDC quality control data.

TABLE 21.—AFDC CASES IN WHICH AFDC WORKER HAS NOT MADE REQUIRED REFERRAL ACTION TO CHILD SUPPORT AGENCY, JULY–DECEMBER 1977

State	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Alaska	77	103	0
Arizona	236	169	0
California	10,012	6,808	3,204
Colorado	378	309	240
Connecticut	1,435	512	273
Florida	64	192	0
Georgia	1,221	771	257
Hawaii	281	450	168
Illinois	4,634	3,921	891
Indiana	132	0	88
Iowa	225	187	112
Kansas	377	94	283
Kentucky	660	355	253
Louisiana	1,060	689	106
Maine	64	96	64
Maryland	2,188	978	230
Massachusetts	3,100	1,653	2,480
Michigan	5,694	2,928	976
Minnesota	76	0	76
Mississippi	1,442	370	123
Missouri	3,402	1,492	1,014
Montana	0	38	38
Nebraska	0	0	0
New Hampshire	75	0	0
New Jersey	1,669	1,001	445
New Mexico	60	30	30
New York	17,310	12,694	2,596
North Carolina	2,833	3,305	531
Ohio	8,483	3,059	3,894
Oklahoma	173	0	103
Oregon	751	326	326
Pennsylvania	12,518	7,316	2,438
Rhode Island	251	50	0
South Dakota	0	0	36
Tennessee	694	148	248

[1] Projected from AFDC quality control estimates.

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TABLE 21.—AFDC CASES IN WHICH AFDC WORKER HAS NOT MADE REQUIRED REFERRAL ACTION TO CHILD SUPPORT AGENCY, JULY–DECEMBER 1977—Continued

State	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Texas	226	301	0
Utah	36	36	36
Vermont	152	76	342
Washington	171	273	444
West Virginia	165	41	41
Wyoming	14	14	14
U.S. total	8..,339	50,785	22,400

[1] Projected from AFDC quality control estimates.

TABLE 22.—AVERAGE NUMBER OF MONTHS CASE HAS BEEN ON AFDC WHERE THE REQUIRED AFDC REFERRAL TO CHILD SUPPORT AGENCY HAS NOT BEEN MADE, JULY–DECEMBER 1977

	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Alaska	40	11	0
Arizona	91	37	0
California	62	63	66
Colorado	37	68	45
Connecticut	56	68	88
Florida	16	118	0
Georgia	65	81	82
Hawaii	25	67	48
Illinois	65	51	32
Indiana	72	0	39
Iowa	23	43	121
Kansas	66	53	106
Kentucky	64	53	42
Louisiana	57	65	103
Maine	34	68	73

[1] Projected from AFDC quality control estimates.

TABLE 22.—AVERAGE NUMBER OF MONTHS CASE HAS BEEN ON AFDC WHERE THE REQUIRED AFDC REFERRAL TO CHILD SUPPORT AGENCY HAS NOT BEEN MADE, JULY-DECEMBER 1977—Continued

State	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Maryland	44	60	25
Massachusetts	44	62	73
Michigan	36	32	25
Minnesota	78	0	76
Mississippi	58	70	57
Missouri	70	62	50
Montana	0	2	11
Nebraska	0	0	0
New Hampshire	6	0	0
New Jersey	39	58	49
New Mexico	44	22	114
New York	64	54	80
North Carolina	47	78	34
Ohio	53	36	38
Oklahoma	94	0	18
Oregon	40	25	67
Pennsylvania	67	69	76
Rhode Island	68	10	0
South Dakota	0	0	1
Tennessee	57	34	51
Texas	121	51	0
Utah	6	3	10
Vermont	68	144	59
Washington	62	100	35
West Virginia	19	21	16
Wyoming	1	62	0
U.S. total	58	58	58

[1] Projected from AFDC quality control estimates.

F. Other Provisions Relating to the Social Security Act

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

(Section 501 of the Bill)

Present law.—A substantial proportion of SSI recipients are also eligible for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act. The proportion of dual eligibility can be expected to increase in the future since many of those who are now ineligible for title II benefits are simply so old that their period of work history occurred prior to the time that social security coverage was available. The number of SSI recipients who also receive title II benefits is shown in table 23.

Though the two programs are administered by the same agency, it can sometimes happen that an individual's first check under one program will be delayed. If the SSI check is delayed, retroactive entitlement takes into account the amount of income the individual had from social security. However, if the title II check is delayed, a windfall to the individual can occur since it is not possible to retroactively reduce his SSI benefit beyond the beginning of the current quarter.

Even for the current quarter, court decisions require the Social Security Administration to treat the erroneous SSI payments as overpayments which cannot be collected without first offering the recipient an evidentiary hearing.

Committee bill.—Under the committee provision the statute would be amended to provide that an individual's entitlement under the two titles shall be considered as a totality so that payment under either program shall be deemed to be a payment under the other if that is subsequently found to be appropriate. Thus, if payment under title II is delayed so that a higher payment is made under title XVI, the adjustment made in the case of any individual will only be the net difference in total payment. There would, of course, be the proper accounting adjustments to assure that the appropriate amounts were charged to the general fund and the trust funds respectively. Any appropriate reimbursement would also be made to the States where State supplementary benefits are involved. The committee expects that the Department will ensure that applicants are made aware this adjustment is required by law at the time they file their claims for benefits.

TABLE 23.—NUMBER AND PERCENT OF PERSONS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS WHO ALSO RECEIVE SOCIAL SECURITY (OASDI) BENEFITS, BY CATEGORY, SEPTEMBER 1978

Reason for eligibility	Total	With social security benefits	
		Number	Percent of total
Total	4,231,049	2,157,269	52.1
Aged	1,993,212	1,374,887	68.9
Blind and disabled	2,238,311	782,382	34.9

EXTENSION OF THE TERM OF THE NATIONAL COMMISSION ON SOCIAL SECURITY

(Section 502 of the Bill)

Present law.—The National Commission on Social Security was established by the Social Security Amendments of 1977, with its members jointly appointed by the President and Congress, to 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, 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.

Under current law, the terms of its members are to last 2 years, and the Commission itself will expire on January 1, 1981.

Additional time will be needed to closeout the work of the Commission as well as to extend the terms of its members to coincide with the expiration date of the Commission.

Committee bill.—The committee provision would extend for 3 months the expiration date of the National Commission on Social Security and the terms of its members. Under the committee provision, the Commission's work and the terms of its members would end on April 1, 1981.

FREQUENCY OF FICA DEPOSITS FROM STATE AND LOCAL GOVERNMENTS

(Section 503 of the Bill)

Present law.—Effective January 1, 1951, the Social Security Act extended social security coverage to State and local government employees. Coverage is through voluntary agreements between the Secretary of HEW and the individual States. The act provides that the regulations of the Secretary shall be designed to make the deposit requirements imposed on States the same, so far as practicable, as those imposed on private employers.

Each State deposits the combined State and local government social security contributions directly with the Federal Reserve Bank for transfer to the trust funds. As required by regulation, each State deposits contributions and files wage reports of covered employees with HEW within 1 month and 15 days after the end of each calendar quarter. This time frame was requested by the States and has been in effect since 1959. Before 1959, the States were required to file wage reports and make deposits within 30 days after the end of each calendar quarter.

Contributions paid by workers and their State and local government employers increased from about $867,000 in fiscal year 1951 to over $9.8 billion in fiscal year 1977. These contributions are estimated to increase to about $15.7 billion by fiscal year 1980.

On March 30, 1978, the Department published in the Federal Register its proposed rulemaking increasing from quarterly to monthly the frequency with which States must deposit social security contributions on wages and salaries paid to covered employees—the so-called 15–15–15 method.

By allowing the States to make quarterly deposits of State and local contributions, HEW lost about $1.1 billion in interest income to the trust funds from 1961 through 1979.

HEW considered both the oral and written comments on its proposed rules and, as a result, made changes which require that the States deposit the social security contributions for each of the first 2 months of a calendar quarter by the 15th day after each month. The contributions for the third month of the quarter will not be due until 1 month and 15 days after the end of that month—the so-called 15–15–45 method. These changes were published in the Federal Register on November 20, 1978, and are to become effective July 1, 1980.

Committee bill.—In order to ease the transition to the new depositing schedule, the committee provision requires that FICA deposits from State and local governments will be due 30 days after the end of each month. The provision would be effective beginning July 1980. The committee recognizes that, in some instances, the thirtieth day following the end of a month would fall on a holiday or week end. In such circumstances, the committee intends that the provision be interpreted to require that any necessary payments be deposited no later than the preceding working day so that in all cases the overall 30 day limitation would not be exceeded.

ELIGIBILITY OF ALIENS FOR SSI

(Section 504 of the Bill)

Present law.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law." The latter category refers primarily to refugees who enter as conditional entrants or parolees. An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that

the alien will be supported. In addition, the Immigration and Nationality Act provides that an immigrant who becomes a "public charge" within 5 years of his entry into the United States may be deported if the cause of his becoming a "public charge" did not arise subsequent to his entry. However, receipt of SSI payments does not constitute becoming a "public charge" under present court interpretations of that term.

There have been complaints, particularly in a few States, that legal aliens have been applying for and receiving welfare benefits within a very short period after their entry into the country. As welfare recipients, these aliens are also generally eligible for the full range of medicaid benefits offered within their State.

Under the SSI statute, legal aliens are eligible for payments within 30 days after their arrival in the United States.

In a February 1978 report, "Number of Newly Arrived Aliens Who Receive Supplemental Security Income Needs To Be Reduced," the General Accounting Office estimated that about 214,000 aliens receive SSI, of which about 42,000 are newly arrived. The GAO observed in its report that "The public charge provisions of the Immigration and Nationality Act are ineffective in screening out aged (age 65 or older) aliens who may need SSI assistance soon after arrival in the United States. We estimate that 34 percent of the aged aliens who entered the United States during fiscal years 1973–75 were receiving SSI at the end of December 1976."

Committee bill.—The committee agrees with the recommendation of the GAO in its 1978 report that there should be a residency requirement to prevent assistance payments to newly arrived aliens. The committee bill would require an alien to reside in the United States for 3 years before he would be eligible for SSI. The provision would not apply to aliens under age 65 who are suffering from blindness or disability on the basis of conditions which arose after the time they were admitted to the United States.

DEMONSTRATION AUTHORITY TO PROVIDE SERVICES TO THE TERMINALLY ILL

(Section 505 of the Bill)

Present law.—Under present law there is a 5-month waiting period before benefits are payable under the disability insurance program. The committee has heard testimony that this waiting period sometimes constitutes an unreasonable hardship for persons who are suffering from a terminal illness, and that it should not apply in such cases. The committee has also heard testimony that it is difficult to justify waiving the waiting period for the terminally ill, while continuing to apply it for other disabled individuals, inasmuch as many other disabled workers are likely to have similar needs for income during the initial months of disability. In a memorandum by the Office of the Actuary of the Social Security Administration, which discusses the difficulty of estimating costs of this kind of proposal, it is observed that "Due to the difficulty involved in predicting whether an illness will result in premature death, especially within a limited time of 12 months or less, the level of accuracy of determinations of terminal illness cannot be expected to be very good. It is expected that many per-

sons will be found reasonably likely to die within 12 months of onset who will in fact survive the year. Similarly many persons will die within 12 months of onset who will not have been expected to do so." The actuary estimates that the long-range cost to the disability trust fund for the proposal would be .03 of taxable payroll.

Committee bill.—The committee believes that there is a need to find ways to improve assistance for persons who are terminally ill. The committee has been informed that the Department of Health, Education, and Welfare is currently undertaking a demonstration project through the Health Care Financing Administration to determine how best to provide the full range of services needed by persons who are terminally ill. The committee believes that it is appropriate for the Social Security Administration to participate in this project, and has included in its bill a provision authorizing up to $2 million a year to be used by SSA for the purpose of studying the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration. It is expected by the committee that this demonstration authority and the resulting reports which will be made on demonstration projects will provide the information necessary to enable the committee to amend the Social Security Act so as to provide the kinds of assistance most appropriate for individuals who are suffering from terminal illnesses.

WORK INCENTIVE AND OTHER DEMONSTRATION PROJECTS UNDER THE DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS

(Section 506 of the Bill)

Present law.—Under present law, the Secretary of Health, Education, and Welfare has no authority to waive requirements under titles II, XVI and XVIII of the Social Security Act to conduct experimental or demonstration projects.

Committee bill.—The committee believes that there is great need to improve the operations of the disability insurance, supplemental security income, and medicare programs as they relate to the disabled. These programs may, over time, affect the lives of nearly every individual and family in the Nation. It is highly important, therefore, that they be administered in the most efficient and effective way possible.

So far as the disability insurance program is concerned, one of the areas in which there is the most pressing need for information is the area of how to encourage disabled individuals to remain in and to return to the work force. Therefore, the committee has included in its bill as a matter of high priority specific authority for the waiver of certain benefit requirements of titles II, XVI, and XVIII to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries. The bill requires SSA to report to the Congress on its findings on work incentives by January 1, 1983. The committee bill also authorizes waivers in the case of other disability insurance demonstration projects which SSA may wish to undertake, such as study of the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or

otherwise stimulate new forms of rehabilitation. In addition, the committee bill includes authorization for waiver of requirements under title XVI to carry out experimental, pilot, or demonstration projects which are likely to assist in promoting the objectives or facilitate the administration of the SSI program. The bill provides for allocation of costs all such demonstration projects to the programs to which the project is most closely related. In the case of the SSI program, the Secretary is authorized to reimburse the States for the non-Federal share of payments or costs for which the State would not otherwise be liable. A final report on the projects authorized by this section would be due five years from enactment. (The committee recognizes that some elements of the experimental or demonstration projects might have to remain in effect beyond that date in order to assure the validity of the research.)

The committee bill includes a provision to waive certain requirements of the human experimentation statute, but to require that the Secretary in reviewing any application for any experimental, pilot or demonstration project pursuant to the Social Security Act would take into consideration the human experimentation law and regulations in making his decision on whether to approve the application. The committee does not intend that this provision modify the requirements of the human experimentation statute as they apply to direct medical experimentation with actual diagnosis or treatment of patients.

INCLUSION IN WAGES OF FICA TAXES PAID BY EMPLOYER

(Section 507 of the bill)

Present law.—In general, employers are required to pay an *employer* social security tax on the wages they pay their employees and to withhold from those wages an equal *employee* social security tax. As an alternative to this procedure, however, present law allows employers to assume responsibility for both the employer and employee taxes instead of withholding the employee's share from his wages. Under this alternative procedure, the payment by the employer of the employee's social security tax represents, in effect, an additional amount of compensation. However, existing law specifically exempts that amount of additional compensation from social security taxes. The net effect is that, for a given level of total compensation, somewhat lower social security taxes would be payable if the employer pays the employee social security tax instead of withholding it from the employee's wages.

Committee bill.—The committee recognizes that the provision of existing law has proved to be a matter of some convenience in certain employment relationships, particularly when relatively small amounts of wages are involved as in the case of domestic employment. However, the committee is seriously concerned over reports that there may be increasing use of the provision as a means of tax avoidance involving more substantial wage and tax payments than were envisioned when the existing law provisions were originally adopted. The committee has been advised that potential losses to the trust funds could run into the billions of dollars if the use of this provision continues to spread. For these reasons, the committee has decided to modify the provisions of existing law so that after 1980 any amounts of employee

social security taxes paid by an employer will be considered to constitute wages and will therefore be subject to social security taxation. This change will not apply in the case of payments made on behalf of domestic employees.

III. Cost Estimates and Actuarial Data Provided by the Administration

ACTUARIAL STATUS OF THE DISABILITY INSURANCE TRUST FUND UNDER THE BILL

Short term.—The status of the disability insurance trust fund was strengthened substantially by the Social Security Amendment of 1977, which increased the amount of tax contributions allocated to the trust fund. The Social Security Administration's current estimates, which are based on the Administration's Mid-Session Review assumptions, indicate that the disability insurance trust fund will amount to $5.4 billion at the end of 1979 and that it will grow rapidly during the following 5 years, reaching $28.5 billion by the end of 1984 under present law. The projected rapid growth of the DI trust fund is also due, in part, to a significant reduction in the number of benefits awarded to disabled workers after 1977. On the other hand, the old-age and survivors insurance trust fund is expected to continue to decline during the next 5 years, largely offsetting the rapid growth in the DI trust fund.

Estimates of the operations of the disability insurance trust fund under present law and under the program as modified by the committee bill are shown in tables 29 and 28 for calendar years 1978–84 and fiscal years 1978–84, respectively.

Long term.—On a long-term basis, the situation of the disability insurance trust fund under present law is favorable. The 1979 trustees' report reflects new assumptions of substantially reduced disability incidence rates in the future as compared with those assumed in earlier reports. These assumptions reflect the improved experience since 1975 and particularly in 1978. The reasons for this improvement are not wholly known.

The 1978 trustees' report indicated a long-term actuarial balance of −0.14 percent of taxable payroll in the disability insurance program, but the more favorable assumptions as to incidence rates in the 1979 report changed this to +0.21 percent. This bill, as amended by the Senate Finance Committee, provides a savings of 0.14 percent of taxable payroll, thereby raising the actuarial surplus to 0.35 percent. Although the DI program is therefore in an actuarially sound condition, its past history of volatility suggests caution in making any precipitous changes in financing.

The bill also has some impact on the old-age and survivors insurance program. The actuarial balance for that program would be reduced by .01 percent of taxable payroll to a level of −1.40.

The long-range estimates presented in this section are based on the intermediate assumptions described in the 1979 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds.

H.R. 3236 AS MODIFIED BY SENATE FINANCE COMMITTEE

TABLE 24.—LONG-RANGE COST EFFECT ON THE OASDI SYSTEM BY PROVISION: INTERMEDIATE ASSUMPTIONS—1979 TRUSTEES' REPORT

[As percent of taxable payroll]

	OASI	DI	Total
Average scheduled tax rate	10.05	2.13	12.19
Average expenditures (present law)	11.47	1.92	13.38
Actuarial balance	−1.41	+.21	−1.20
Effect of provisions of bill:[1]			
1. Limitation on total family benefits for disabled-worker families (sec. 101)	(2)	−.06	−.06
2. Reduction in number of dropout years for younger disabled workers (sec. 102)	(2)	−.05	−.05
3. Deduction of impairment-related work expense from earnings in determining substantial gainful activity (sec. 302)	(2)	+.02	+.02
4. Federal review of State agency determinations (sec. 304)	(2)	−.02	−.02
5. More detailed notices specifying reasons for denial of disability claims (sec. 305)	(2)	(2)	(2)
6. Payment for existing medical evidence (sec. 309)	(2)	(2)	(2)
7. Periodic review of disability determinations (sec. 311)	(2)	−.03	−.03
8. Treatment of employer-paid employee FICA taxes as wages	−.01	(2)	−.01
Total effect of bill	−.01	−.14	−.15
Average scheduled tax rate	10.05	2.13	12.19
Average expenditures (after enactment)	11.46	1.78	13.23
Actuarial balance	−1.40	+.35	−1.05

[1] Estimates for each provision take into account interaction with provisions that precede it in the table.

[2] Less than 0.005 percent of taxable payroll.

COST ESTIMATES FOR H.R. 3236 AS REPORTED BY THE SENATE FINANCE COMMITTEE

TABLE 25.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISION

(PLUSES INDICATE COST, MINUSES INDICATE SAVINGS)

Provision [1]	Estimated effect on OASDI expenditures in fiscal years 1980–84 [2] (in millions)					Estimated effect of long-range OASDI expenditures as percent of taxable payroll [2]
	1980	1981	1982	1983	1984	
1. Limitation on total family benefits for disabled-worker families (sec. 101):						
Benefit payments	−$25	−$97	−$175	−$262	−$350	.....
Administrative costs	([3])	([3])	([3])	([3])	([3])	.....
Total	−25	−97	−175	−262	−350	−0.06
2. Reduction in number of dropout years for younger disabled workers (sec. 102):						
Benefit payments	−13	−49	−95	−149	−207	.....
Administrative costs	([3])	([3])	([3])	([3])	([3])	.....
Total	−13	−49	−95	−149	−207	−.05
3. Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (sec. 302):						
Benefit payments	([4])	+4	+10	+18	+26	.....
Administrative costs	([3])	([3])	([3])	([3])	([3])	.....
Total	.....	+4	+10	+18	+26	+.02

4. Federal review of State agency determinations (sec. 304):						
Benefit payments		−2	−11	−40	−73	
Administrative costs	+1	+11	+25	+41	+43	
Total	+1	+9	+14	+1	−30	−.02
5. More detailed notices specifying reasons for denial of disability claims (sec. 305):						
Benefit payments	(5)	(5)	(5)	(5)	(5)	
Administrative costs		+13	+18	+19	+20	
Total		+13	+18	+1900	+20	(5)
6. Payment for existing medical evidence (sec. 309):						
Benefit payments	(5)	(5)	(5)	(5)	(5)	
Administrative costs	+5	+21	+22	+23	+24	
Total	+5	+21	+22	+23	+24	(5)
7. Periodic review of disability determinations (sec. 311):						
Benefit payments		−2	−26	−65	−110	
Administrative costs	+3	+13	+42	+43	+45	
Total	+3	+11	+16	−22	−65	−.03
8. Demonstration project concerning services needed by terminally ill (sec. 505):						
Benefit payments						
Administrative costs	+2					
Total	+2					(5)

See footnotes at end of table.

COST ESTIMATES FOR H.R. 3236 AS REPORTED BY THE SENATE FINANCE COMMITTEE

TABLE 25.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISION—Continued

(PLUSES INDICATE COST, MINUSES INDICATE SAVINGS)

Provision [1]	Estimated effect on OASDI expenditures in fiscal years 1980–84 [2] (in millions)					Estimated effect of long-range OASDI expenditures as percent of taxable payroll [2]
	1980	1981	1982	1983	1984	
Totals:						
Benefit payments	−$38	−$146	−$297	−$498	−$714	.....
Administrative costs	+11	+58	+107	+126	+132	.....
Total net effect on OASDI trust fund expenditures	−27	−88	−190	−372	−582	−.14

[1] The benefit estimates shown for each provision take account of the provisions that precede it in the table.

[2] Estimates are based on the intermediate assumptions in the 1979 trustees report. The estimated reduction in long-range average expenditures represents the total net change in both benefits and administrative expenses over the next 75 years. The total reduction does not equal the sum of the components because of rounding.

[3] Additional administrative expenses are less than $1,000,000.

[4] Less than $500,000.

[5] None.

[6] Less than 0.005 percent.

TABLE 26.—ESTIMATED EFFECT ON SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES, BY PROVISION

(Pluses indicate cost; minuses indicate savings)

Provision	Estimated effect on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980–84 (in millions)				
	1980	1981	1982	1983	1984
1. Limitation on total family benefits for disabled-worker families (sec. 101):					
SSI program payments	(1)	+$1	+$2	+$2	+$3
AFDC program payments	+$3	+5	+8	+10	+12
Total	+3	+6	+10	+12	+15
2. Reduction in number of dropout years for younger disabled workers (sec. 102): SSI program payments	+5	+10	+18	+27	+38
3. Extension of medicare coverage for 36 months for workers whose benefits are terminated because of SGA (sec. 104): Medicare benefits [2]	+1	+14	+42	+68	+76
4. Eliminate additional Medicare waiting periods and requirement that months in medicare waiting period be consecutive (sec. 103): Medicare benefits [2]	+10	+46	+53	+61	+68
5. Federal review of State agency determinations (sec. 304):					
Medicare benefits [3]		(1)	(1)	−1	−6
SSI program payments		(1)	−2	−5	−10
SSI administrative costs	(1)	+6	+12	+20	+21
Total [4]	(1)	+6	+10	+14	+5

See footnotes at end of table.

TABLE 26.—ESTIMATED EFFECT ON SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES, BY PROVISION—Continued

(Pluses indicate cost, minuses indicate savings)

Provision	Estimated effect on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980–84 (in millions)				
	1980	1981	1982	1983	1984
6. Periodic review of disability determinations (sec. 311):					
Medicare benefits [2]			(1)	−$7	−$19
SSI program payments		−$1	−$11	−27	−36
SSI administrative costs	+$2	+8	+23	+24	+25
Total [4]	+2	+7	+12	−10	−30
7. Special SSI benefit status for persons who lose eligibility because of SGA (sec. 201):					
SSI program payments		+1	+2	+5	(5)
Medicaid expenditures		(1)	+1	+3	(5)
Total		+1	+3	+8	
8. Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (sec. 302):					
SSI program payments	(1)	+1	+2	+3	+3
Medicaid expenditures	(1)	(1)	+1	+1	+2
Total	(1)	+1	+3	+4	+5
9. Terminate parental deeming after age 18 in SSI program (sec. 203): SSI program payments	(1)	+1	+2	+3	+3

10. More detailed notices specifying reasons for denial of disability claims (sec. 305): SSI administrative costs		+3	+4	+4	+4
11. Adjustments between title II and title XVI to avoid windfall benefits (sec. 501):					
SSI program payments	−10	−21	−22	−23	−24
SSI administrative costs	(1)	(1)	(1)	(1)	(1)
Total	−10	−21	−22	−23	−24
12. Treatment of earnings received in sheltered workshops for purposes of SSI benefits (sec. 202): SSI program payments	(1)	+2	+2	+2	+2
13. 3-year residency requirement for aliens to be eligible for SSI benefits (sec. 504): SSI program payments	−4	−18	−25	−47	−60
14. Employment search activites as a condition of continuing eligibility for AFDC (sec. 401): Federal AFDC program costs [6]	(1)	(1)	(1)	(1)	(1)
15. Increased Federal matching for anti-fraud activities (sec. 402): Federal AFDC program costs [6]	+10	+23	+25	+28	+31
16. Federal matching for AFDC management information systems (sec. 407): Federal AFDC program cost [6]	+4	17	+27	+37	+75
17. Access to wage information for child support program (sec. 409): Child support program costs [6]	−9	−10	−11	−12	−13
18. Federal matching for child support management information systems (sec. 406): Child support program costs [6]	+2	+6	+4	−2	−2
19. Federal matching for child support duties performed by court personnel (sec. 405): Child support program costs [6]	(1)	+1	+1	+1	+1
20. Use of IRS to collect child support for non-AFDC families (sec. 403): Child support program costs [6]	−4	−6	−7	−8	−10

See footnotes at end of table.

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TABLE 26.—ESTIMATED EFFECT ON SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES, BY PROVISION—Continued

(Pluses indicate cost, minuses indicate savings)

Provision	Estimated effect on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980–84 (in millions)				
	1980	1981	1982	1983	1984
Totals:					
Total additional benefit payments from medicare trust funds	+$11	+$60	+$95	+$121	+$119
Total effect on expenditures from general fund:					
SSI	−7	−7	+7	−12	−31
AFDC and child support	+6	+36	+47	+54	+94
Medicaid			+2	+4	+2
Total	−1	+29	+56	+46	+65
Total effect on medicare and general fund expenditures	+10	+89	+151	+167	+184

[1] Less than $500,000.
[2] Long-range average cost or savings to the hospital insurance program over the next 25 years is less than 0.005 percent of taxable payroll.
[3] Long-range HI savings is 0.01 percent of taxable payroll.
[4] There will be relatively small changes in medicaid payments.
[5] Provision in effect for 3 years only.
[6] Congressional Budget Office estimates; rounded to the nearest million.

TABLE 27.—SUMMARY OF ESTIMATED EFFECT OF COMMITTEE BILL ON OASDI EXPENDITURES; OASDI INCOME; AND SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES

(In millions)

	Fiscal years—				
	1980	1981	1982	1983	1984
Total net effect on OASDI trust fund expenditures (from table A)	−$27	−$88	−$190	−$372	−$582
Total net effect on SSI, AFDC, medicare, and medicaid expenditures	+10	+89	+151	+167	+184
Total net effect on Federal Government expenditures	−17	+1	−39	−205	−398
Effect on OASDHI trust fund income:					
As a result of changing the frequency of FICA deposits from State and local governments (sec. 503) (reduction in interest income to the trust funds)		−14	−19	−20	−21
As a result of including employer-paid FICA taxes as wages (sec. 507)		+30	+50	+70	+100
Total net effect on OASDHI trust fund income		+16	+31	+50	+79

H.R. 3236 AS APPROVED BY THE SENATE FINANCE COMMITTEE

TABLE 28.—ESTIMATED OPERATIONS OF THE DI TRUST FUND UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY THE COMMITTEE BILL, FISCAL YEARS 1978-84

(In billions)

Fiscal year	Income		Outgo		Net increase in fund	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
1978	$12.8	$12.8	$12.7	$12.7	$0.1	$0.1
1979	15.2	15.2	14.0	14.0	1.2	1.2
1980	17.5	17.5	15.8	15.8	1.7	1.8
1981	20.8	20.8	17.7	17.6	3.1	3.2
1982	24.1	24.2	19.5	19.3	4.6	4.8
1983	27.0	27.0	21.4	21.0	5.6	6.0
1984	29.9	30.0	23.4	22.8	6.5	7.2

	Fund at end of year		Assets at beginning of year as a percentage of outgo during year	
	Present law	Committee bill	Present law	Committee bill
1978	$4.4	$4.4	34	34
1979	5.5	5.5	31	31
1980	7.3	7.3	35	35
1981	10.4	10.5	41	42
1982	15.0	15.3	53	54
1983	20.6	21.4	70	73
1984	27.1	28.5	88	94

Note: The above estimates are based on the administration's mid-session review assumptions.

TABLE 29.—ESTIMATED OPERATIONS OF THE DI TRUST FUND UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY THE COMMITTEE BILL, CALENDAR YEARS 1978–84

(In billions)

Calendar year	Income		Outgo		Net increase in fund	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
1978	$13.8	$13.8	$13.0	$13.0	$0.9	$0.9
1979	15.7	15.7	14.5	14.5	1.2	1.2
1980	18.0	18.0	16.3	16.2	1.8	1.8
1981	22.0	22.0	18.1	18.0	3.8	3.9
1982	24.9	24.9	20.0	19.7	4.9	5.1
1983	27.7	27.8	21.9	21.4	5.8	6.3
1984	30.7	30.8	23.9	23.3	6.8	7.5

	Fund at end of year		Assets at beginning of year as a percentage of outgo during year	
	Present law	Committee bill	Present law	Committee bill
1978	$4.2	$4.2	26	26
1979	5.4	5.4	29	29
1980	7.2	7.3	33	34
1981	11.0	11.2	40	40
1982	15.9	16.3	55	57
1983	21.7	22.6	73	76
1984	28.5	30.2	91	97

Note: The above estimates are based on the administration's mid-session review assumptions.

IV. Regulatory Impact of the Bill

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate the following evaluation is made of the regulatory impact which would be incurred in carrying out the bill.

This legislation primarily relates to the structure of existing programs providing benefits for disabled individuals. As such it does add or modify any major activities of a regulatory nature. The regulatory impact of the bill, is therefore, essentially limited to the routine and incidental regulatory processes necessary to implement changes in Federal benefit programs and their administration.

Provisions relating to amount of disability benefits and continuation of eligibility status for disability and disability-related benefits.—Several provisions of titles I, II, and III of the bill are designed to modify elements of the Social Security Act programs which provide for disabled persons cash benefits and related benefits of a medical or social service nature. These modifications are designed to improve the climate for rehabilitation both by limiting benefit levels in cases where

existing levels are considered so high as to provide a disincentive to rehabilitaton and by extending trial work periods and auxiliary benefit eligibility so as to minimize the concern that rehabilitation will result in a net loss to the individual. The programs in question now serve a population consisting of some 7 million disabled persons and dependents. In general, any limitations on benefits under the bill will affect none of those now receiving benefits while the provisions which provide for additional benefits in certain circumstances will apply to existing as well as future beneficiaries. In either case, there may be some additional paperwork in the form of applications and routine supporting documentation but this is not expected to differ in any significant respect from the overall level of paperwork under existing law for these programs. While some information now required might be needed in some instances, such information would not involve any substantial impact on the privacy of individuals. Any economic impact would be expected to result primarily from the nature of the benefit modifications rather than from any regulatory changes needed to implement those modifications.

Administrative changes.—The bill includes a number of provisions designed to improve the administration of disability and welfare programs. While these provisions are not essentially regulatory in nature, they will involve a fairly significant amount of regulatory activity in their implementation. In particular, the bill revises the regulatory basis for Federal oversight of the disability determination process with a view towards producing more effective administration and improved accuracy and uniformity. It is not anticipated that these provisions of the bill will result in any net increase in paperwork. The bill does, however, include an important requirement that certain existing paperwork provisions be modified to include understandable explanations of benefit determinations. The major economic impact would be the result of more accurate benefit decisions which will improve the situation of individuals who would otherwise have been improperly denied benefits and cause a financial loss for individuals who might otherwise have received benefits to which they are not entitled.

For the most part, the bill has no privacy impact other than in the nature of purely routine requirements for information essential to determining benefit eligibility. The bill does, however, include a provision (section 404) which modifies overly severe privacy protection provisions which have been interpreted in some cases to prevent necessary program audits. The bill also permits, subject to careful statutory protections, the use of certain earnings information in the possession of the Social Security Administration and State unemployment compensation agencies for purposes of aiding in the effective operation of the child support enforcement program.

V. Vote of the Committee in Reporting the Bill

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill.

The bill was ordered reported by a voice vote.

VI. Budgetary Impact of the Bill

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act, the following statements are made relative to the costs and budgetary impact of the bill.

The Committee generally accepts the estimates of the Congressional Budget Office with respect to the budgetary impact of the bill. The Committee has also incorporated in the report detailed cost estimates of the Social Security Administration. While the two sets of estimates differ in some respects, both seem to the Committee to be within the realm of reasonable variation. As indicated in the Congressional Budget Office report, the overall impact of the bill represents a budgetary savings. This forms a part of (and is therefore consistent with) the projected savings indicated for "other income maintenance" in the allocations of the Committee in its most recent allocation report under the first concurrent resolution on the budget for fiscal year 1980. (Senate Report 96–386.)

The estimate prepared by the Congressional Budget Office concerning this bill is printed below:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., November 8, 1979.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Sections 308(a) and 403 of the Congressional Budget Act, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3236, Social Security Disability Amendments of 1979.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ROBERT D. REISCHAUER,
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3236.
2. Bill title: Social Security Disability Amendments of 1979.
3. Bill status: November 6 draft version of bill ordered reported by the Committee on Finance on October 31, 1979.
4. Bill purpose: The primary purposes of this bill are (1) to limit benefits to new disability recipients with families and to younger disabled workers; (2) to provide certain work incentives with the objective of increasing the recovery rate of disabled workers; (3) to codify and strengthen certain administrative practices; and (4) to provide certain Federal grants to States for management of the AFDC and child support enforcement programs.
5. Cost estimates: It is estimated that H.R. 3236, as ordered reported by the Senate Finance Committee, will have the following net effect on the Federal budget:

TABLE 1.—ESTIMATED NET COSTS OR SAVINGS TO THE FEDERAL BUDGET

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Direct spending provisions:					
Estimated budget authority	4	7	19	40	77
Estimated outlays	−38	−105	−207	−365	−598
Amounts subject to appropriation action:					
Required budget authority	1	54	102	105	137
Estimated outlays	1	54	102	105	137
Net budget impact: Net change in deficit	−37	−51	−105	−260	−461

The bill has cost effects on a number of Federal programs. There will be net savings from the Social Security Disability Trust Funds, offset by higher income maintenance and medicare costs. There are also separate provisions affecting the Supplemental Security Income Program which have savings in most years, although SSI has net additional expenditures as a result of the DI caps provision's offsets. And there are provisions offsetting the aid to families with dependent children program which have a net cost. The following tables summarize the budget authority and outlay impact to each of these major program areas.

TABLE 2.—ESTIMATED CHANGE IN DISABILITY INSURANCE OUTLAYS AND BUDGET AUTHORITY

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Estimated budget authority	4	8	24	52	97
Estimated outlays	−43	−135	−275	−467	−693

Outlays and budget authority fall in budget function 600.

TABLE 3.—ESTIMATED CHANGE IN MEDICARE OUTLAYS AND BUDGET AUTHORITY

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Estimated budget authority		—1	—5	—12	—20
Estimated outlays	5	30	71	102	95

Outlays and budget authority fall in budget function 550.

TABLE 4.—ESTIMATED CHANGE IN OUTLAYS AND BUDGET AUTHORITY FOR FEDERAL INCOME MAINTENANCE PROGRAMS

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Required budget authority:					
SSI	—5	14	44	30	12
AFDC	6	41	60	80	127
Other [1]		—1	—2	—5	—2
Total	1	54	102	105	137
Estimated outlays:					
SSI	—5	14	44	30	12
AFDC	6	41	60	80	127
Other [1]		—1	—2	—5	—2
Total	1	54	102	105	137

[1] Includes medicaid.

This bill would result in changes in future Federal liabilities through changes in existing entitlement programs and would require or permit subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the budget authority needed to cover the estimated outlays that would result from the enactment of H.R. 3236.

6. Basis for estimates: These estimates were done using a preliminary draft of the bill language. The costs of some provisions may change as a result of changes in the language of the bill.

A. Social Security Disability Provisions

The tables below summarize the major provisions affecting the DI trust funds and the other Federal offsets arising as a result of the social security disability provisions:

TABLE A.—ESTIMATED COSTS AND SAVINGS TO THE DISABILITY INSURANCE TRUST FUND OF MAJOR PROVISIONS OF H.R. 3236 [1]

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Combined provisions to limit total family benefit and reduce the number of dropout years for younger workers	−54	−185	−339	−482	−617
65 percent pre-adjudicative review by fiscal year 1983	1	3	−9	−49	−120
Review of continuing disability cases once every 3 years	3	8	22	1	−23
More detailed notices of denials	0	13	18	19	20
Costs to DI of other sections	7	26	33	44	47
Total DI trust fund savings—Estimated outlays	−43	−135	−275	−467	−693

[1] Savings to the DI trust fund are partially offset by costs to other income maintenance and health programs. The impact on these other programs of the sections relating primarily to the DI program is shown in table B. In addition, certain provisions of this bill affect the SSI and AFDC programs. These estimates are shown in subsequent sections of the cost estimate.

TABLE B.—ESTIMATED CHANGE IN OUTLAYS TO THE HI AND SMI TRUST FUNDS AND TO OTHER FEDERAL INCOME MAINTENANCE PROGRAMS FROM PROVISIONS OF H.R. 3236 WHICH PRIMARILY AFFECT THE SSA DISABILITY PROGRAM

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Cap on family benefits and reduced number of dropout years:					
Federal income maintenance programs:					
Estimated outlays [2]	9	34	60	84	103
Second 12-month trial work period and 3-year extension of medicare:					
HI: Estimated outlays [3]	3	19	47	71	78
SMI: Estimated outlays [3]	2	13	31	48	52
Increased review of initial DI awards and reconsiderations:					
HI: Estimated outlays [3]	0	0	0	−1	−6
SMI: Estimated outlays [3]	0	0	0	−1	−4
Periodic review of continuing DI cases:					
HI: Estimated outlays [3]		−1	−4	−9	−15
SMI: Estimated outlays [3]		−1	−3	−6	−10
Supplemental security income [1 2]	2	16	26	16	4
Total estimated outlays	16	80	157	202	202

[1] These costs to SSI represent administration estimates resulting from provisions to increase the review of DI determinations, implementation of the periodic review of continuing DI cases, and for more detailed denial notices. The bill requires that the Social Security Administration review a stated percentage of all disability determinations made by State agencies for title II. While no such requirement is explicitly stated for title XVI determinations, this estimate assumes that the Social Security Administration will also increase the percentage of title XVI determinations reviewed parallel to that required for title II.

[2] Required budget authority for these income maintenance programs is equal to the increase in estimated outlays. They are included in the summary table 4 above.

[3] Lower net interest into the HI and SMI trust funds results from higher levels of spending. This reduces estimated budget authority for these programs, and is reported in table 3 above.

For the disability provisions given below, increases or decreases in interest to the trust fund will result from these provisions. This will add or subtract from estimated budget authority. The amounts are small for most provisions. However, the amount of budget authority gained for all of the DI provisions as a result of the savings generated by the bill is summarized in table 2 above.

LIMITATIONS ON TOTAL FAMILY BENEFITS IN DISABILITY CASES, AND THE REDUCTION IN THE NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

H.R. 3236, as reported by the Senate Finance Committee, changes the way the maximum family benefit is computed by providing that the total family benefit not exceed 85 percent of average indexed monthly earnings (AIME) (but not to fall below the primary insurance amount) or 160 percent of the worker's primary insurance amount. In addition, the bill also reduces the number of "dropout" years that may be taken for calculating AIME for younger workers. These sections are discussed together.

Close to 30 percent of disabled worker beneficiaries receive dependents benefits and of this group approximately 80 percent would receive reduced family benefits as a result of these sections combined. On average, the benefit for disabled worker beneficiaries with dependents would be lower by 10 to 15 percent under this bill. Most savings under these provisions result from reduced benefits to beneficiaries with dependents. Smaller savings in DI payments are estimated for workers without dependents benefits as a result of the dropout provision. As indicated in the table below, total savings in fiscal year 1980 attributable to reduced benefits to beneficiaries are estimated to be $54 million, rising to $617 million in 1984. Some lower income beneficiaries, however, would receive offsetting increases in income maintenance payments estimated to be $9 million in 1980, rising to $103 million by 1984.

(By fiscal years; in millions of dollars)

	1980	1981	1982	1983	1984
Savings in DI benefits	−54	−185	−339	−482	−617
Offsetting increases in Federal income maintenance payments [1]	9	34	60	84	103
Estimated net savings in Federal outlays	−45	−151	−279	−398	−514

[1] Includes payments for SSI and AFDC. Approximately 70 percent of these costs are SSI costs.

CBO estimates are based on a sample of disabled workers (and their families awarded benefits between 1973 and 1976. In order to project benefits for workers first coming on the rolls in 1980, the earnings histories of the workers in the sample were wage indexed and the new wage indexed formula was applied to these earnings. Benefits were adjusted to account for the higher level of AIME between 1973–76 and 1980, 1981, 1982, and so on using CBO economic assumptions. Benefits were calculated under current (1980) law and under provisions simialr to those in the bill to derive the change in benefits from current law in each year, 1980–84.

The estimate assumes that 150,000 disabled workers with dependents would be awarded benefits in 1980 and that the number of new awards for this category of workers would decline slightly each year, reflecting the general decline in family size. The savings in benefits were applied to each cohort of new awards and adjustments were made for subsequent terminations in family benefits due to various factors—death, aging of children, recovery.

The estimates given do not assume any change in beneficiaries as a result of the reduction in benefits. Based on past experience, however, one could expect some reduction in the number of disabled workers applying for benefits. A CBO study indicates that a 1-percent reduction in benefits has been associated with a 0.85 percent reduction in beneficiaries. Allowing for this factor could lead to an additional reduction in DI outlays of $250–$400 million by 1984.

EXPANSION OF TRIAL WORK PERIOD AND ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

These provision extend the trial work period for disabled workers by an additional 12 months for a total of 24 months. Although cash benefits will still be terminated after the first 12 months as under current law, medicare coverage will be extended for three more years to those who continue to work beyond the first 12 month period. In addition, the provisions grant immediate resumption of medicare coverage (no 24 months waiting period) for those who return to the rolls after a period of time off the rolls.

These provisions are expected to have a neglible effect on cash benefit payments to disabled workers, although they will result in added costs to the medicare hospital insurance (HI) and supplementary medical insurance (SMI) programs. Based on an enactment date of July 1, 1980, benefits in these programs are estimated to increase as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
HI	3	19	47	71	78
SMI	2	13	31	48	52

Medicare costs increase partly because of the expanded entitlement to medicare for those who would normally terminate benefits after their original 12 months trial work period. Based on recent data on the number of workers leaving the rolls after completing a trial work period it is estimated that 20,000 workers would leave the rolls in fiscal years 1980 and become eligible for extended medicare benefits at an estimated average annual cost of $880 in HI and $570 in SMI per eligible disabled worker. These average costs are expected to increase by 9 percent a year.

The remainder of medicare cost increases are incurred because those who normally return to the rolls after a period off the rolls will have their medicare benefits reinstated without a waiting period. About 40,000 workers are estimated to terminate DI benefits in 1980 (based

on recent experience) for reasons other than completion of the trial work period (such as recovery). Of this group an estimated 5,000 persons are expected to return to the rolls within the year, thereby becoming eligible for resumption of medicare.

With respect to the effect of these provisions on DI cash benefit payments, some workers may be encouraged to work beyond the first 12 month trial period because of the continued medicare coverage and this would ultimately produce savings. On the other hand, some workers may find it easier to return to the rolls because of the elimination of the waiting period and this would increase costs. These incentive effects, however, are expected to have only a minimal net effect on the number of disabled worker beneficiaries.

DISABILITY DETERMINATIONS, FEDERAL BEVIEW OF STATE AGENCY DETERMINATIONS

This section directs the Secretary of Health, Education and Welfare to expand the current postadjudicative review of initial DI allowances and denials to a stricter preadjudicative review of all initial disability allowances and denials. In addition there is to be a review of all reconsiderations. This review is to be 15 percent in fiscal year 1981, 35 percent in 1982, and 65 percent in 1983 and thereafter.

The estimate of the net savings resulting from this provision is based on the methodology developed in a June 1978 study by CBO. This study used data on the gross percentages of initial state allowances and denials returned by the Bureau of Disability Insurance to the states and the percentage of those subsequently denied or allowed contained in the print *Disability Insurance Program, 1978*, Social Security Subcommittee of the Committee on Ways and Means, February 1978. From a 6 months review of 6,299 Title II initial disability allowances, 23.6 percent were returned to the states and 22.1 percent of these were denied. A similar sample of denials reviewed showed that 8.1 percent of the cases sampled were returned to the states, and 33.2 percent of these were reversed. Using these percentages, the number of initial claims reversed can be estimated. To the reversal rate of initial determinations, an estimate of the reversals resulting from a review of reconsiderations was made, along with the resultant savings. Allowances were made in the estimate for the man-year costs of implementation, inflation and for normal deterioration from the DI rolls. Individuals who are denied DI benefits also lose the medicare benefits to which they would have been entitled after a 2 year waiting period.

Estimated savings to the DI as well as the hospital insurance and supplementary medical insurance trust funds are as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
DI benefits	1	3	− 9	−49	−120
HI benefits	0	0	0	−1	−6
SMI benefits	0	0	0	−1	−4

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANTS' RIGHTS

This section requires the Secretary of HEW to provide a detailed explanation to an applicant denied a disability award of the reasons for the denial. These notices will be in a language easily understood by the claimant, and are to include the evidence and reasons as to why the claim was denied. The effective date of this provision is to be January 1, 1981. The administration estimates that increased manpower needs to implement this provision only for DI denials would cost as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
DI	0	13	18	19	20

CBO agrees that a lengthy response to each applicant could add these amounts to costs. It should be pointed out however, that if this provision were interpreted by the Administration to require only a brief note to the denied DI applicant, then these costs could fall by one-half or more.

PERIODIC REVIEW OF CONTINUING DISABILITY CASES

This section requires all non-permanent continuing disability cases to be reviewed every 3 years. It also will give the Secretary of HEW discretion in reviewing all permanent continuing disability cases. In the middle of 1977, a 100 percent yearly review (since reduced to 50 percent) was instituted of all continuances of "diaried" cases where recovery seemed probable. It is unclear if many (or most of these cases are identical to those to be deemed non-permanent, but it allows a way to estimate a probable savings from this provision (although there is no current formal definition of a nonpermanent DI case). The current review is believed to be partially responsible for the .8 percent increase in terminations since 1976 (about 20,000 cases). If one-half of these terminations were due to this continuing disability review, then by 1983 a total of 10,000 cases would have been terminated which might not have been in the absence of this provision. The estimate assumes a starting date of January 1, 1981, and the fiscal year savings reflect the fact that only one-half of the first year required number of cases will be reviewed. Manpower costs (including 1980 startup costs) are based on Administration estimates of their potential needs to review the additional cases. Assuming an equal implementation over the remaining years in which all cases must be reviewed the 5 years, costs or savings to DI, HI and SMI are estimated as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
DI	3	8	22	1	−23
HI	0	−1	−4	−9	−15
SMI	0	−1	−3	−6	−10

This section can also be interpreted as directing the social security administration to formalize the type of review they are already doing. If that is the case, and the intent of the provision, there conceivably could be no costs or savings to the provision.

STATE DEPOSITS OF OASDHI TAXES

This provision requires state and local governments deposit their FICA taxes no more than 30 days after the end of each month. The staff of the Senate Finance Committee has communicated with CBO that they interpret this provision to mean that if the 30th day should fall on a weekend or federal holiday, this payment should be made on the day before the weekend or holiday.

For the 1980 to 1983 period, the new pattern of revenue payments made by State and local governments will not significantly affect trust fund receipts. In fiscal year 1984, the August payment date (September 30) falls on a Saturday; under the interpretation presented above, there also will be no affect on trust fund receipts. Thus, the 1984 effects of this provision are not included in the total budget authority estimate above.

TAXATION OF EMPLOYEE OASDHI TAXES PAID BY EMPLOYER

Section 209(f) of the Social Security Act provides that any payment by an employer of an employee's FICA tax is excluded from the definition of wages for social security purposes. The Senate Finance Committee has passed legislation altering the definition of wages in calculating social security taxes so as to include these payments as a portion of the employee's earnings.

CBO cannot provide a precise estimate of the revenue affects of the Finance Committee's provisions because the extent of this type of payment practice is unknown at the present time. The Administration, however, has estimated that potential revenue loss from this form of payment if all wage payments were made in this manner could total $6.5 billion in fiscal year 1980.

OTHER PROVISIONS

The other provisions of the bill which have a cost are those providing for deduction of impairment related work expenses, payment for existing medical evidence and certain travel expenses, and for certain studies and demonstration projects. CBO accepts the administration's cost estimates for these provisions.

B. Sections Primarily Affecting SSI

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITIES DESPITE SEVERE MEDICAL IMPAIRMENT

The substantial gainful activity limit under current law and regulations is $280 a month in gross earnings. Any disabled SSI recipient with earnings above this level, after a trial work period, loses his disability status and his SSI eligibility. This provision effectively eliminates the SGA test for disabled recipients. The provision would be effective July 1, 1980 and would continue for 3 years. The following estimate assumes that 4,000 recipients per year remain in the program because of the change in the SGA rules. These recipients also retain medicaid eligibility that otherwise would have been lost. The costs to SSI and medicaid are as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority:					
SSI	(1)	4	9	7	
Medicaid		1	3	2	
Total	(1)	5	12	9	
Estimated outlays:					
SSI	(1)	4	9	7	
Medicaid		1	3	2	
Total	(1)	5	12	9	

[1] Under $500,000.

EMPLOYMENT OF DISABLED SSI RECIPIENTS IN SHELTERED WORKSHOPS

This section would require that remuneration received by SSI recipients in certain sheltered workshops would be counted as earned income and would thereby be subject to the $65 per month earnings disregard and the 50 percent earnings disregard. A small amount of this income is apparently counted as unearned income today and the earnings disregards are therefore not available. The administration has estimated the full year costs of this provision at $2 million, and there is no additional information currently available on which to revise the estimate. Since the effective date of the provision is July 1, 1980, we have assumed a one-quarter year impact in fiscal year 1980. The cost to SSI is as follows:

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(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority: SSI	(1)	2	2	2	2
Estimated outlays: SSI	(1)	2	2	2	2

[1] Under $500,000.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN DISABLED CHILD SSI REPIPIENT ATTAINS AGE 18

Under current law, a disabled student between the ages of 18 and 21, living with his parents, has his parent's income and resources deemed to him for the purposes of SSI eligibility and benefit determination. This provision would treat the student, generally as living in the household of another and the benefit would be red .ced by one-third. No current recipient would have their benefits lowered because of this provision. The effective date of the provision is July 1, 1980. The estimate is based on administration data on the current caseload. Some new cases will become eligible because of the provision, and these cases could increase the costs above those shown below.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority: SSI	(1)	1	2	3	3
Estimated outlays: SSI	(1)	1	2	3	3

[1] Under $500,000.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY (SSI ONLY)

This provision allows a deduction from earnings of the cost of attendant care service, medical device, equipment, prostheses, and similar items and service for the purposes of determining substantial gainful activity. The provision would become effective July 1, 1980. The provision would allow a small number of newly eligible persons to participate in SSI and medicaid. The costs shown below reflect administration estimates.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority:					
SSI		5	8	10	11
Medicaid			1	1	2
Total		5	9	11	13
Estimated outlays:					
SSI		5	8	10	11
Medicaid			1	1	2
Total		5	9	11	13

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

This provision requires a three year residence in the U.S. before an alien can establish eligibility for SSI benefits unless: (1) such alien has been lawfully admitted to the U.S. as a refugee; (2) such alien is blind or disabled; and (3) the medical condition which caused his blindness or disability arose after the date of admission to the U.S. The effective date of this provision is January 1, 1980. The SSI costs shown below were provided by the administration on the basis of program data on the number of aliens admitted to the program each year.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority:					
SSI	−4	−18	−25	−47	−60
Medicaid		−2	−6	−8	−4
Total	−4	−20	−31	−55	−64
Estimated outlays:					
SSI	−4	−18	−25	−47	−60
Medicaid		−2	−6	−8	−4
Total	−4	−20	−31	−55	−64

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

When social security disability insurance payments are made retroactively to those who are also SSI recipients, some SSI recipients receive more under both programs than they would have received had the payments been made at the same time. This provision would alter this inequity. Instead of making retroactive DI payments to SSI

recipients, resulting in an overpayment to them, the DI trust fund will reimburse the Treasury to compensate for this potential overpayment of SSI benefits. This payment to the Treasury is, in effect, a savings to SSI for excessive payments they would have made.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority: SSI	−10	−21	−22	−23	−24
Estimated outlays: SSI	−10	−21	−22	−23	−24

C. AFDC Provisions

IMPROVEMENT IN WIN PROGRAM

The provision amends title IV to provide authority to States to develop job search activities to assist work incentive (WIN) registrants to enter unsubsidized employment. The program expects to fund these job search assistance activities with funds reprogrammed from other WIN activities. Therefore, it is expected that no additional cost to the government will be incurred as a result of enactment of this legislation.

Some savings in the form of reduced AFDC grants could occur if the new job search activities allowed under this provision lead to a higher placement rate of WIN participants in unsubsidized employment. However, the extent to which states chose to reprogram funds to job search activities, the amount of these reprogrammed funds, and the effect on placement rates of reprogramming funds from existing activities is unknown. Therefore, no estimate of savings has been made.

MATCHING FOR AFDC ANTI-FRAUD ACTIVITIES

The purpose of this provision is to amend title IV–A of the Social Security Act to provide 75 percent federal matching in expenditures incurred by separate fraud units in investigating and prosecuting cases of fraud under State aid to families with dependent children plans.

Currently, the Federal Government provides a 50 percent match to States for AFDC administrative expenses. This provision would raise that to 75 percent for expenses related to the investigation and prosecution of fraud in the AFDC program. Based on information supplied by State officials, CBO estimates that raising the matching rate to 75 percent would raise the Federal cost by $21 million in fiscal year 1980, assuming the program was fully in place for the whole year. Since this program would only be effective for the latter half of fiscal year 1980, only half of the full year cost or $11 million is projected. Since the States share of anti-fraud administrative costs fall under this provision from 50 percent to 25 percent, States may choose to increase prosecutions of cases with relatively low expected returns. This could add to Federal costs, but we are unable to estimate the increase.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority	11	23	25	28	31
Estimated outlays	11	23	25	28	31

USE OF IRS TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

This bill amends title IV–D of the Social Security Act authorizing the use of the Internal Revenue Service to collect child support for non-aid to families with dependent children.

CBO's estimate of this provision is based on consultations with the IRS and the Department of HEW. Under this provision, certain child support cases would be referred to the IRS for collections. In a number of cases this would not only result in an increase in the amount of an individual collection but would also keep certain families above the minimum eligibility requirement for AFDC payments. This provision thus would reduce present AFDC rolls and mitigate the size of future rolls, thereby producing savings in the federal budget.[1]

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority	−6	−5	−6	−7	−8
Estimated outlays	−6	−5	−6	−7	−8

SAFEGUARDING INFORMATION

This provision amends the safeguards restricting disclosure of certain information under the medicaid program, the social services program, and the AFDC program to include governmental audits conducted in connection with program administration. Because resulting activities will be performed with present staff, it is expected that no additional cost to the government will be incurred as a result of this legislation.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

The purpose of this provision is to amend title IV–D of the Social Security Act to authorize Federal financial participation in court expenses attributable to the performance of services directly related to the operation of a State plan for child support established pursuant to such title.

[1] This estimate assumes a complimentary provision in H.R. 3434 is not passed. If the complementary provision in H.R. 3434 as passed by the Senate is enacted, the Federal Government would then pay 75 percent of the total cost of 14,500 investigations for which the IRS charges $122.50 per investigation regardless of the outcome. This would result in a $1.3 million cost impact on the Federal budget in fiscal year 1980. which is not reflected in the above estimate.

CBO's estimate of cost is based on the increase in the number of judges and related court personnel necessary to clearup the backlog of child support cases under litigation and to provide timely judgments in the future. This provision does not cover existing expenditures which must be maintained at current levels or additional prosecution costs which are already matched by the Federal Government under a similar law. The bill is expected to yield some savings during the 5 budget years because it accelerates collections through a more adequately staffed court system. CBO's estimate for the 5 fiscal years comes after consultation with the Department of HEW. We have assumed a January 1, 1980 effective date. The fiscal year 1980 cost is therefore a three quarter year impact.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority	1	2	3	4	6
Estimated outlays	1	2	3	4	6

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

This provision increases Federal matching for the procurement of computer systems to be used in child support programs from 75 percent to 90 percent.

The costs of this provision result from two things: 1) increased matching payments for systems which would have been procured in any case; and 2) increased procurement as a result of the reduction in computer procurement costs to the States.

Reflected in the estimate is the spending pattern which has occurred under the similarly matched medicaid program. The first year costs would be relatively low due to the time lags involved in writing regulations and approving State plans. During the later years, costs would increase as purchasing and installation occurred.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority	(1)	1	1	2	3
Estimated outlays	(1)	1	1	2	3

[1] Less than $500,000.

AFDC MANAGEMENT INFORMATION SYSTEM

This provision would amend title IV–A of the Social Security Act to grant Federal matching funds for States choosing to install or update computer systems to handle claims processing and information retrieval for their AFDC programs (90 percent matching for plan-

ning and procurement, 75 percent for operation). The estimated Federal cost associated with this provision reflects the general spending pattern that has occurred under a similar federally matched medicaid program. Since all States have computer facilities, the estimate only takes account of Federal expenditures for updating and extending these facilities together with expenditures for the operation of the new parts of the system. The first year cost would be relatively low due to time lags involved in writing regulations and approving State plans. Subsequent fiscal years are expected to show progressively higher costs as more States purchase and install their new computer systems. Long run savings could occur in fiscal years beyond the period of this cost estimated as the result of staff time reductions and more efficient services. It is not known, however, whether these will offset the increased Federal share of installation and operation costs. Estimates of costs were derived after consultations with HEW.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority	4	17	27	37	75
Estimated outlays	4	17	27	37	75

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

This provision directs the Secretary of HEW to delay advance payments to States for administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended six months earlier. The amendment would also allow HEW to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

In view of the fact that this provision simply ensures that States will file appropriate reports on a timely basis, only an occasional fluctuation in the pattern of Federal disbursements will occur. However, these fluctuations will not change total expenditures.

Therefore, it is expected that no additional cost to the government will be incurred as a result of enactment of this legislation.

ACCESS TO WAGE INFORMATION FOR THE CHILD SUPPORT PROGRAM

The provision allows child support enforcement programs to have access to Internal Revenue Service Records so as to more adequately provide wage information for purposes of carrying out State plans for child support.

It is expected to result in savings three different ways: 1) it would increase the number of cases handled in the child support enforcement program and consequently result in an increase in collections. Currently, there are approximately 338,000 child support applications per year; 50 percent of which result in an established payment (i.e., a case). This is expected to increase due to attaining these records; 2) more timely and accurate wage information will affect the earlier

establishment of 25 percent of these cases, thus adding approximately one month's payment to each new case, once again increasing collections; and 3) this information will greatly expedite costly administrative procedures thus reducing the average cost of all applications by $25.[1] The end result of these three forces is to jointly reduce future Federal liabilities through increased collections and decreased costs.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Estimated outlays:					
Collections	−1	−1	−1	−1	−1
1-month acceleration	−2	−2	−2	−2	−2
Administrative savings	−3	−4	−4	−4	−5
Total outlays	−6	−7	−7	−7	−8
Required budget authority	−6	−6	−7	−7	−8

Note: Due to rounding columns may not add.

7. Estimate comparison: There is no comprehensive cost estimate of the bill currently available from the Administration.

8. Previous CBO estimates. Certain disability sections are in H.R. 3236 as reported by the Ways and Means Committee, April 23, 1979.

9. Estimate prepared by: Stephen Chaikind, Chuck Seagrave, Al Peden, Todd Drumm (225–776).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

VII. Changes in Existing Law

In compliance with paragraph 4 of rule XXIX of the Standing rules of the Senate, 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):

SOCIAL SECURITY ACT

* * * * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund

Section 201. (a) * * *

(j) *There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the*

[1] This estimate was based on consultations with the Department of HEW.

Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title.

(k) Expenditures made for experiments and demonstration projects under section 506(a) of the Social Security Disability Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.

* * * * * * *

Child's Insurance Benefits

(d)(1) Every child (as defined in section 216(e)) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 223(d)) which began before he attained the age of 22, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits,

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding which ever of the following first occurs—

(D) the month in which such child dies, or marries,

(E) the month in which such child attains the age of 18, but only if he (i) is not under a disability (as so defined) as the time he attains such age, and (ii) is not a full-time student during any part of such month.

(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month; or

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22, [the third month following the month in which he ceases to be under such disability], *or, subject to section 223 (e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222 (c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity,*" or (if later) the earlier of—

[(i)] *(iii)* the first month during no part of which he is a full-time student, or

[(ii)] *(iv)* the month in which he attains the age of 22, but only if he was not under a disability (as so defined) in such earlier month.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month. No payment under this paragraph may be made to a child who would not meet the definition of disability in section 223(d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father or his mother or adopting mother at the time specified in paragraph (1)(C) unless, at such time, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 216(h)(2)(B) or section 216(h)(3) shall be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather or stepmother at the time specified in paragraph (1)(C) if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather or stepmother.

(5) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), (e), (f), (g), or (h) of this section or under section 223(a), or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 223(a) or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A) (i) is a full-time student or is under a disability (as defined in section 223(d)), and (ii) had not attained the age of 22, or

(B) is under a disability (as so defined) which began before the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability,

but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

(C) the first month in which an event specified in paragraph (1)(D) occurs;

(D) the earlier of (i) the first month during no part of which he is a full-time student, or (ii) the month in which he attains the age or 22, but only if he is not under a disability (as so defined) in such earlier month; or

(E) if he was under a disability (as so defined), the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22.

(7) For the purposes of this subsection—

(A) A "full-time student" is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations pre-

scribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a "full-time student" if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer.

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An "educational institution" is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B)) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

(8) In the case of—

(A) An individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or

(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed

not to meet the requirements of clause (i) or (iii) of paragraph (1) (C) unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D) (i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States,

(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such period of disability began, or (II) if he is an individual referred to in subparagraph (B), for the year immediately before the month in which began the period of disability of such individual which still exists at the time of adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefit, or (III) if he is an individual referred to in either subparagraph (A) or subparagraph (B) and the child is the grandchild of such individual or his or her spouse, for the year immediately before the month in which such child files his or her application for child's insurance benefits, and

(iii) had not attained the age of 18 before he began living with such individual.

In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of birth of such child.

(9) (A) A child who is a child of an individual under clause (3) of the first sentence of section 216(e) and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1)(C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual (I) for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child's birth.

Widow's Insurance Benefits

(e) (1) The widow (as defined in section 216(c)) and every surviving divorced wife (as defined in section 216(d)) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

(A) is not married,

(B) (i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph (5),

(C) (i) has filed application for widow's insurance benefits, or was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 65, and

(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of such deceased individual, shall be entitled to a widow's insurance benefit for each month, beginning with—

(E) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

(F) if she satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph (6)) in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of such deceased individual, or, if she became entitled to

such benefits before she attained age 60, [the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month).] *subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.*

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

(B) If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitled to widow's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living and section 215(f)(5) or (6) were applied, where applicable, and

(ii) 82½ percent of the primary insurance amount of such deceased individual,

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

(3) If a widow, before attaining age 60, or a surviving divorced wife, marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.

(4) If a widow, after attaining age 60, marries, such marriage shall for purposes of paragraph (1), be deemed not to have occurred.

(5) The period referred to in paragraph (1)(B)(ii), in the case of any widow or surviving divorced wife, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income her benefits are or would be based, or

(B) the last month for which she was entitled to mother's insurance benefits on the basis of the wages and self-employment income of such individual, or

(C) the month in which a previous entitlement to widow's insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased,

and ending with the month before the month in which she attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(6) The waiting period referred to in paragraph (1)(F), in the case of any widow or surviving divorced wife, is the earliest period of five consecutive calendar months—

(A) throughout which she has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which her application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (5) begins.

(7) In the case of an individual entitled to monthly insurance benefits payable under this section for any month perior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

(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.

Widower's Insurance Benefits

(f)(1) The widower (as defined in section 216(g)) of an individual who died a fully insured individual, if such widower—

(A) has not remarried,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph (6),

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of his deceased wife,

shall be entitled to a widower's insurance benefit for each month, beginning with—

(E) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

(F) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph (7)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (6) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-

age insurance benefit equal to or exceeding the primary insurance amount of his deceased wife, or if he became entitled to such benefits before he attained age 60, [the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).], *subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.*

(2)(A) The amount of 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 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.

(4)(A) Except as provided in subsection (q), paragraph (2), of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount (as determined after application of the following sentence) of his deceased wife. 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).

(B) If the deceased wife (on the basis of whose wages and self-employment income a widower is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widower's insurance benefit of such widower for any month shall, if the amount of the widower's insurance benefit of such widower (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased wife would have been entitled (after application of subsection (q)) for such month if such wife were still living and section 215(f) (5) or (6) were applied, where applicable; and

(ii) 82½ percent of the primary insurance amount of such deceased wife;

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

(4) If a widower, before attaining age 60, remarries—

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

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

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

(5) If a widower, after attaining the age of 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred.

(6) The period referred to in paragraph (1)(B)(ii), in the case of any widower, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based, or

(B) the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased,

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(7) The waiting period referred to in paragraph (1)(F), in the case of any widower, is the earliest period of five consecutive calendar months—

(A) throughout which he has been under disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which his application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (6) begins.

(8) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the

Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

* * * * * * *

Application for Monthly Insurance Benefits

(j)(1) Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit under this title for a month prior to the month in which application is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

[(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.]

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occurs before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(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 entitle-

ment 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.

(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.

(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.

* * * * * * *

Reduction of Insurance Benefits

Maximum Benefits

Sec. 203. (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 paragraphs [(3)] *and (6)* (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).

(C) In each calender 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 disability 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)] *(8)* 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—

(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.

(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—

(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);

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.

(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.

(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced, (before the application of section 224) to the smaller of—

(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

(B) 160 percent of such individual's primary insurance amount.

[(6)**]** (7) 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 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.

[(7)**]** *(8)* Subject to paragraph **[**(6)**]** (7), this subsection as in effect in December 1978 shall remain in effect with respect to a pri-

mary 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.

[(8)] *(9)* 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.

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Overpayments and Underpayments

Sec. 204. (a) * * *

(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1132.

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Evidence, Procedure, and Certification for Payment

Sec. 205. (a) The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. *Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, and understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason, or reasons upon which it is based.* Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced

mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

* * * * * * *

(g) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, [if supported by substantial evidence] *unless found to be arbitrary and capricious*, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) hereof which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) hereof, the court shall review only the question of conformity with such regulations and the validity of such regulations. [The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary,] *The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;* and

the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

* * * * * * *

Definition of Wages

Sec. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

* * * * * * *

(f) The payment by an employer (without deduction from the remuneration of the employee) [(1) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code of 1939, or in the case of a payment after 1954 under section 3101 of the Internal Revenue Code of 1954, or (2) of any payment required from an employee under a State unemployment compensation law;] *(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 for wages paid for domestic service in a private home of the employer, or (2) of any payment required from an employee under a State unemployment compensation law;*

* * * * * * *

Computation of Primary Insurance Amount

Sec. 215.

* * * * * * *

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.]

(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

(ii) in the case of an individual who is entitled to disability insurance benefits, by one year or, if greater, the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.

* * * * * * *

Cost-of-Living Increases in Benefits

(i)(1) For purposes of this subsection—

(A) the term "base quarter" means (i) the calendar quarter ending on March 31 in each year after 1974, or (ii) any other calendar quarter in which occurs the effective months of a general benefit increase under this title;

(B) the term "cost-of-living computation quarter" means a base quarter, as defined in subparagraph (A)(i), in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this title; except that there shall be no cost-of-living computation quarter in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year such a general benefit increase becomes effective; and

(C) the Consumer Price Index for a base quarter, a cost-of-living computation quarter, or any other calendar quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

(2)(A)(i) The Secretary shall determine each year beginning with 1975 (subject to the limitation in paragraph (1)(B) whether the base quarter (as defined in paragraph (1)(A)(i)) in such year is a cost-of-living computation quarter.

(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—

(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)] *(7) and (8)* as in effect after December 1978.

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)).

* * * * * * *

(v) Notwithstanding clause (i)(v), no primary insurance amount shall be less than that provided under section 215(a)(1) amount regard to subparagraph (C)(i)(I) thereof, as subsequently increased by applicable increases under this section.

(B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply in the case of monthly benefits under this title for months after May of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after May of such calendar year.

(C)(i) Whenever the level of the Consumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter, the Secretary shall (within 5 days after such publication) report the amount of such excess to the House Committee on Ways and Means and the Senate Committee on Finance.

(ii) Whenever the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance of such determination within 30 days after the close of such quarter, indicating the amount of the benefit increase to be provided, his estimate of the extent to which the cost of such increase would be met by an increase in the contribution and benefit base under section 230 and the estimated amount of the increase in such base, the actuarial estimates of the effect of such increase, and the actuarial assumptions and methodology used in preparing such estimates.

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter a determination that a benefit increase is resultantly required and the percentage thereof. 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)(D) thereof (or paragraph (2) thereof as in effect prior to 1979)). *Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1979).*

(3) As used in this subsection, the term "general benefit increase under this title" means an increase (other than an increase under this subsection) in all primary insurance amounts on which monthly insurance benefits under this title are based.

(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 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.

Other Definitions

Sec. 216. For the purposes of this title—

* * * * * * *

Disability; Period of Disability

(i)(1) Except for purposes of section 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (3), (4), and (5) of section 223(d) shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this title shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2)(A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than five full calendar months' duration or such individual was entitled to benefits under section 223 for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of 65.

In the case of a deceased individual, the requirement of an application under the preceding sentence may be satisfied by an application for a disability determination filed with respect to such individual within 3 months after the month in which he died.

(C) A period of disability shall begin—

(i) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(ii) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

(D) A period of disability shall end with the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases.

(E) Except as is otherwise provided in subparagraph (F), no application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph) shall be accepted as an application for purposes of this paragraph.

(F) An application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D)

as the month in which the period of disability ends (determined without regard to subparagraphs (B) and (E)) shall be accepted as an application for purposes of this paragraph if—

(i) in the case of an application filed by or on behalf of an individual with respect to a disability which ends after the month in which the Social Security Amendments of 1967 is enacted, such application is filed not more than 36 months after the month in which such disability ended, such individual is alive at the time the application is filed, and the Secretary finds in accordance with regulations prescribed by him that the failure of such individual to file an application for a disability determination within the time specified in subparagraph (E) was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application, and

(ii) in the case of an application filed by or on behalf of an individual with respect to a period of disability which ends in or before the month in which the Social Security Amendments of 1967 as enacted,

(I) such application is filed not more than 12 months after the month in which the Social Security Amendments of 1967 is enacted,

(II) a previous application for a disability determination has been filed by or on behalf of such individual (1) in or before the month in which the Social Security Amendments of 1967 is enacted, and (2) not more than 36 months after the month in which his disability ended, and

(III) the Secretary finds in accordance with regulations prescribed by him, that the failure of such individual to file an application within the then specified time period was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application.

In making a determination under this subsection, with respect to the disability or period of disability of any individual whose application for a determination thereof is accepted solely by reason of the provisions of this subparagraph (F), the provisions of this subsection (other than the provisions of this subparagraph) shall be applied a such provisions are in effect at the time such determination is made.

(G) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application (*and shall be deemed to have been filed on such first day*) only if the applicant satisfies the requirements for a period of disability before the Secretary makes a final decision on the application[.] *and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).* [If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed on such first day.]

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such quarter; and

(B)(i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in paragraph (1)).

For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage.

(4) [Repealed.]

Voluntary Agreements for Coverage of State and Local Employees

* * * * * * *

Payments and Reports by States

(e)(1) Each agreement under this section shall provide—

[(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services of employees covered by the agreement constituted employment as defined in section 3121 of such code; and]

(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and

(B) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education, and Welfare may prescribe to carry out the purposes of this section.

(2) Where—

(A) an individual in any calendar year performs services to which an agreement under this section is applicable (i) as the employee of two or more political subdivisions of a State or (ii) as the employee of a State and one or more political subdivisions of such State; and

(B) such State provides all of the funds for the payment of those amounts referred to in paragraph (1)(A) which are equivalent to the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to wages paid to such individual for such services; and

(C) the political subdivision or subdivisions involved do not reimburse such State for the payment of such amounts or, in the case of services described in subparagraph (A)(ii), for the payment of so much of such amounts as is attributable to employment by such subdivisions or subdivisions;

then, notwithstanding paragraph (1), the agreement under this section with such State may provide (either in the original agreement or by a modification thereof) that the amounts referred to in paragraph (1)(A) may be computed as though the wages paid to such individual for the services referred to in clause (A) of this paragraph were paid by one political subdivision for services performed in its employ; but the provisions of this paragraph shall be applicable only where such State complies with such regulations as the Secretary may prescribe to carry out the purposes of this paragraph. The preceding sentence shall be applicable with respect to wages paid after an effective date specified in such agreement or modification, but in no event with respect to wages paid before (i) January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or (ii) the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary, in the case of an agreement or modification which is so mailed or delivered on or after January 1, 1962.

* * * * * * *

Disability Determinations

Sec. 221. [(a) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g), be made by a State agency pursuant to an agreement entered into under subsection (b). Except as provided in subsection (c) and (d), any such determinations shall be the determination of the Secretary for purposes of this title.

[(b) The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determination referred to in subsection (a) with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.

[(c) The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such dis-

ability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.]

(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries or facilities for making disability determinations,

(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function.

(D) fiscal control procedures that the State agency may be required to adopt,

(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.

(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination.

(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.

(d) Any individual dissatisfied with any determination under subsection (a), (b), (c), or (g) shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(e) Each State [which has an agreement with the Secretary] *which is making disability determinations under subsection (a)(1)* under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, [as may be mutually agreed upon] *as determined by the Secretary*, the cost to the State of [carrying out the agreement under this section] *making disability determinations under subsection (a)(1)*. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater

or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 201 (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are at attributable to the administration of section 223 and the Federal Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(f) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.

(g) In the case of individuals in a State which [has no agreement under subsection (b)] *does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines*, in the case of individuals outside the United States, and in the case of any class or classes of individauls [not included in an agreement under subsection (b)] *for whom no State undertakes to make disability determinations*, the determinations referred to in subsection (a) shall be made by the Secretary in accordance with regulations prescribed by him.

(h) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.

Rehabilitation Services

Referral for Rehabilitation Services

Sec. 222. (a) It is hereby declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

Deductions on Account of Refusal to Accept Rehabilitation Services

(b)(1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benfits under sections 202 and 223 for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow, widower, or surviving divorced wife who has not attained age 60, or an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1). If both this paragraph and paragraph (3) are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, divorced wife, husband, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1).

(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202 (d)).

Period of Trial Work

(c)(1) The term "period of trial work", with respect to an individual entitled to benefits under [section 223 or 202(d)] *section 223, 202 (d), 202(e), or 202(f)*, means a period of months beginning and ending as provided in paragraphs (3) and (4).

(2) For purposes of sections 216(i) and 223, any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. For purposes of this subsection the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 202(d) who has attained the age of eighteen, with the month in which he becomes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later[.]; *or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.* Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following the month in which this paragraph is enacted; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

(4) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(A) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(B) the month in which his disability (as defined in section 223(d)) ceases (as determined after application of paragraph (2) of this subsection).

(5) In the case of an individual who becomes entitled to benefits under section 223 for any month as provided in clause (ii) of subsection (a)(1) of such section, the preceding provisions of this subsection shall not apply with respect to services in any month beginning with the first month for which he is so entitled and ending with the first month thereafter for which he is not entitled to benefits under section 223.

* * * * * * *

Disability Insurance Benefit Payments

Disability Insurance Benefits

Sec. 223. (a)(1) Every individual who—

(A) is insured for disability insurance benefits (as determined under subsection (c)(1)),

(B) has not attained the age of sixty-five,

(C) has filed application for disability insurance benefits, and

(D) is under a disability (as defined in subsection (d))

shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined in subsection (c)(2) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability

insurance benefits which terminated, or had a period of disability (as defined in section 216(i)) which ceased, within the sixty-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, [or the third month following the month in which his disability ceases.] *or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.* No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 202 to any person on the basis of the wages and self-employment income of such individual. In the case of a deceased individual, the requirement of subparagraph (C) may be satisfied by an application for benefit filed with respect to such individual within 3 months after the month in which he died.

(2) Except as provided in section 202(q) *and section 215(b)(2)(A)(ii)*, such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 as though he had attained age 62, in—

(A) the first month of his waiting period, or

(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits,

and as though he had become entitled to old-age insurance benefits in the month in which the application for disability insurance benefits was filed and he was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b)) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of an individual who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 215(b)(3) shall not include the year in which he attained age 62, or any year thereafter.

Filing of Application

(b) An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a)(1)) shall be deemed a valid application (*and shall be deemed to have been filed in such first month*) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application[.] *and no re-*

quest under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary). [If, upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.] An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefor before the end of such month shall be entitled to such benefit for such month if such application is filed before the end of the 12th month immediately succeeding such month.

* * * * * * *

Definition of Disability

(d)(1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 202(e) or (f) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists 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 preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, or widower shall not be determined to be under a disability ((for purposes of section 202(e) or (f)) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

(3) For purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. 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. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 222(c), be found not to be disabled. *In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.*

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require. *Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.*

(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).

* * * * * * *

Suspension of Benefits Based on Disability

Sec. 225. (*a*) If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 223, or that a child who has attained the age of eighteen and is entitled to benefits under section 202(d), or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 202(e), or that a widower who has not attained age 60 and is entitled to benfits under section 202(f), may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 202(d), 202(e), 202(f), or 223, until it is determined (as provided in section 221) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose dis-

ability is subject to determination under an agreement with a State under section 221(b), the Secretary shall promptly notify the appropriate State of his action under this [section] *subsection* and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this [section] *subsection*, the term "disability" has the meaning assigned to such term in section 223(d). Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 202, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this [section] *subsection* shall not apply to any child entiled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d).

(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

(2) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.

Entitlement to Hospital Insurance Benefits

Sec. 226.

(a) Every individual who—

(1) has attained age 65, and

(2) is entitled to monthly insurance benefits under section 202 or is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the condition specified in paragraph (1), beginning with the first month after June 1966 for which he meets the conditions specified in paragraphs (1) and (2).

(b) Every individual who—

(1) has not attained age 65, and

(2)(A) is entitled to, and has for 24 [consecutive] calendar months been enttiled to, (i) disability insurance benefits under section 223 or (ii) child's insurance benefits under section 202(d) by reason of a disability (as defined in section 223(d)) or (iii) widow's insurance benefits under section 202(e) or widower's insurance benefits under section 202(f) by reason of a disability (as defined in section 223(d)), or (B) is, and has been for not less than 24 [consecutive] months a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the later of (I) July 1973 or

(II) the twenty-fifth [consecutive] month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending (*subject to the last sentence of this subsection*) with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the month before the month in which he attains age 65. *For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.*

(c) For purposes of subsection (a)—

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of title XVIII on his behalf for inpatient hospital services, post-hospital extended care services, and post-hospital home health services (as such terms are defined in part C of title XVIII) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1814(f)) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services or post-hospital home health services unless the discharge from the hospital required to qualify such services for payment under part A of title XVIII occurred (i) after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later, or (ii) if he was entitled to a hospital insurance benefits pursuant to subsection (b), at a time when he was so entitled; and

(2) an individual shall be deemed entitled to monthly insurance benefits under section 202 or section 223, or to be a qualified railroad retirement beneficiary, for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

(d) For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 7(d) of the Railroad Retirement Act of 1974. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 7(d) of the Railroad Retirement Act of 1974.

(e)(1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(A) the term "age 60" in sections 202(e)(1)(B)(ii), 202(e)(5), 202(f)(1)(B)(ii), and 202(f)(6) shall be deemed to read "age 65"; and

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 202(e)(1) and the phrase "before he attained age 60" in the matter following subparagraph (F) of section 202(f)(1) shall each be deemed to read "based on a disability".

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.

(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).

(f) For purposes of subsection (b) (and (and for purposes of section 1837(q)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection.

shall not include any month which occurred during such previous period.

[(f)] (*g*) For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 103 of the Social Security Amendments of 1965.

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TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

* * * * * * *

Part A—Aid to Families With Dependent Children Appropriation

Section 401. For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid and services to needy families with children.

State Plans for Aid and Services to Needy Families With Children

Sec. 402. (a) A State plan for aid and services to needy families with children must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness;

(5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any expenses reasonably attributable to the earning of any such income;

(8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income; except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such em-

ployer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;

(9) provide safeguards which restrict the use of disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part B, C, or D of this title or under title I, X, XIV, XVI, XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, [and] (C) the administration of any other Federal or federally assigned program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, *and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity*; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (*other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any governmental entity referred to in clause (D) with respect to an activity referred to in such clause*), of any information which identifies by name or address any such applicant or recipient;

(10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, subject to paragraphs (25) and (26), be furnished with reasonable promptness to all eligible individuals;

(11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);

(12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act;

(13) [Repealed].

(14) [Repealed].

(15) provide as part of the program of the State for the provision of services under title XX (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a

relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services, but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;

(16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have;

(17) [Repealed].

(18) [Repealed].

(19) provide—

(A) [that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual is—] *that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment-related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—*

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; [or]

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor [under section 433(g)] to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph); *or*

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(vii) a person who is working not less than 30 hours per week;

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register;

(B) that aid *to families with dependent children* under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 432(b) (2) or (3);

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 435(b);

(D) that (i) training incentives authorized under section 434[, and income derived from a special work project under the program established by section 432(b)(3)] shall be disregarded in determining the needs of an individual under section 402(a)(7), and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 432(b) (2) and (3) shall be taken into account;

(F) that if [and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))] *(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual* has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) and (E) thereof) or section 408 will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the deter-

mination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7); *and*

[except that the State agency shall for a period of sixty days, make payments of the type described in section 406(b)(2) (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be, to participate in such program in accordance with the determination of the Secretary of Labor; and]

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit (*which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3)*) and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to subparagraph (A)[,] *of this paragraph,* I in accordance with the order of priority listed in section 433(a), such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under [part C] *section 432(b) (1), (2), or (3),* and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for [employment or training under part C,] *employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,* (iii) will participate in the development of operational and employability plans under section 433(b); and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 408;

(21) [Repealed].

(22) [Repealed].

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionally adjusted;

(24) provide that if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family until this title;

(25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;

(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

(A) to such the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii), which have accrued at the time such assignment is executed.

(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed; and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section);

(27) provide, that the State has in effect a plan approved under part D and operate a child support program in conformity with such plan;

(28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D, and retained by the State under section 457, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part; [and]

(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[.]

(30) at the option of the State, provide, effective April 1, 1980 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children a residence requirment which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually

report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organizations, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed statewide management system referred to in section 403(a)(3)(D), including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such statewide management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(C), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(C) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

Payment to States

Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of $100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for em-

ployment by the State agency or by the local agency administering the plan in the political subdivision, [and]

(B) 75 per centum of so much of such expenditures as are directly attributable to costs incurred (as found necessary by the Secretary) (i) in the establishment and operation of one or more identifiable fraud control units the purpose of which is to investigate and prosecute cases of fraud in the provision and administration of aid provided under the State plan, (ii) in the investigation and prosecution of such cases of fraud by attorneys employed by the State agency or by local agencies administering the State plan in a locality within the State, and (iii) in the investigation and prosecution of such cases of fraud by attorneys retained under contract for that purpose by the State agency or such a local agency, [and]

(C) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX,

(D) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (C) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and

[(B)] *(E)* one-half of the remainder of such expenditures, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a)(1) of this Act other than services the provision of which is required by section 402(a)(19) to be included in the plan of the State; *, and no payment shall be made under subparagraph (B) unless the State agrees to pay to any political subdivision thereof, an amount equal to 75 per centum of so much of the administrative expenditures described in such subparagraph as were made by such political subdivision* and

(4) [Repealed].

(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

The number of individuals with respect to whom payments described in section 406(b)(2) are made for any month, who may be included as recipients of aid to families with dependent children for

purposes of paragraph (1) or (2), may not exceed 20 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 20 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 402(a)(19)(F) or section 402(a)(26).

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.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarters, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, [and] (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan, *and (C) reduced by such amount as is necessary to provide the appropriate reimbursement of the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section*; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amounts so certified.

(c) Notwithstanding any other provision of this Act, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified, under the program of such State established pursuant to section 402(a)(19)(G), to the local employment office of the State as being ready for employment or training under [part C] *section 432(b)(1), (2), or (3)*, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 402(a)(19)(A).

(d)(1) Notwithstanding subparagraph (A) of subsection (a)(3) the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to social and supportive services provided pursuant to section 402(a)(19)(G). *In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.*

(2) Of the sums authorized by section 401 to be appropriated for the fiscal year ending June 30, 1973, not more than $750,000,000 shall be appropriated to the Secretary for payments with respect to services to which paragraph (1) applies.

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.

(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.

Technical Assistance for Developing Management Information Systems

Sec. 412. *The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(C) of this Act.*

* * * * * * *

Part D—Child Support and Establishment of Paternity Appropriation

Sec. 451. For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establish-

ing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

Duties of the Secretary

Sec. 452. (a) The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the Parent Locator Service established by section 453; and

(10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:

(A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State

and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part;

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the number of child support cases in each State during each quarter of the fiscal year last ending before the report is submitted and during each quarter of the preceding fiscal year (including the transitional period beginning July 1, 1976, and ending September 30, 1976, in the case of the first report to which this subparagraph applies), and the disposition of such cases;

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the absent parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient of aid under a State plan approved under part A has refused to cooperate in identifying and locating the absent parent and the number of cases in which refusal so to cooperate is based on good cause (as determined in accordance with the standards referred to in section 402(a)(26)(B)(ii));

(G) data, by State, on the use of Federal courts and on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government; and

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report.

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State *(or undertaken to be collected by such State pursuant to section 454(6))* to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except the amount of the delinquency under a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c) (1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954.

(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(d) (1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) contains an implementation plan and backup procedures to handle possible failures,

(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

(G) provides such other information as the Secretary determines under regulation is necessary.

(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under section 452(d)(1) and the conditions specified under section 454(16).

(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with

respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information system referred to in section 455(a)(3) of this Act.

* * * * * * *

State Plan for Child Support

Sec. 454. A State plan for child support must—

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that such State will undertake—

(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so, and

(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so), except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;

(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 402(a)(26) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 457(c)) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;

(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an

application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperative with any other State—

(A) in establishing paternity, if necessary,

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plans of such other State, and

(D) in carrying out other functions required under a plan approved under this part;

(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

(11) provide that amounts collected as child support shall be distributed as provided in section 457;

(12) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children;

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments;

(14) comply with such bonding requirements, for employees who receive, disburse, handle, or have access to, cash, as the Secretary shall by regulations prescribe; [and]

(15) maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would

permit them to conceal in the accounting records the misuse of cash receipts (except that the Secretary shall by regulations provide for exceptions to this requirement in the case of sparsely populated areas where the hiring of unreasonable additional staff would otherwise be necessary)[.]; *and*

(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d) of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement.

Payments to States

Sec. 455. (a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

(1) equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, [and]

(2) equal to 50 percent of the total amounts expended by such State during such quarter for the operation of a plan which meets the conditions of section 454 except as is provided by a waiver

by the Secretary which is granted pursuant to specific authority set forth in the law; *and*

(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454 (16);

except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services (other than the parent locator services) to individuals under section 454(6) during any period beginning after September 30, 1978.

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) [The] *Subject to subsection (d), the* Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter (beginning with the quarter which commences January 1, 1980) for the operation of the plan approved under section 454, so much of the expenditures of courts (including, but not limited to, expenditures for or in connection with judges, or other individuals making judicial determinations, and other support and administrative personnel) of such state (or political subdivisions thereof) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the twelve-month period beginning January 1, 1978.

(3) So much of the payment to a State under subsection (a) for any quarter as is payable by reason of the provisions of this subsection may, if the law (or procedures established thereunder) of the State so provides, be made directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.

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(d) Notwithstanding any other provisions of law, no amount shall be paid to any State under this section for the quarter commencing July 1, 1980, or for any succeeding quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).

Support Obligations

Sec. 456. (a) The support rights assigned to the State under section 402(a)(26) shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(1) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the asigned suport rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1)(A) and (B).

(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.

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Access to Wage Information

Sec. 463. *(a) Notwithstanding any other provision of law, the Secretary shall make available to any State (or political subdivision thereof) wage information (other than returns or return information as defined in section 6103(b) of the Internal Revenue Code of 1954), including amounts earned, period for which it is reported, and name and address of employer, with respect to an individual, contained in the records of the Social Security Administration, which is necessary for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 which has been approved by the Secretary under this part, and which information is specifically requested by such State or political subdivision for such purposes.*

(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 only for the purposes authorized by this section.

(c) For disclosure of return information (as defined in section 6103 (b) of the Internal Revenue Code of 1954) contained in the records

of the Social Security Administration for purposes described in paragraph (a), see section 6103(1)(7) of such Code.

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

Adjustment of Retroactive Benefit Under Title II on Account of Supplemental Security Income Benefits

Sec. 1132. *Notwithstanding any other provision of this Act, in any case where an individual—*

(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments, described in paragraph (2) for such months or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.

* * * * * * *

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Basic Eligibility for Benefits

Section 1602. Every aged, blind, or disabled individual who is determined under part A to be eligible on the basis of his income and resources shall, in accordance with and subject to the provisions of

this title, be paid benefits by the Secretary of Health, Education, and Welfare.

Part A—Determination of Benefits

Eligibility for and Amount of Benefits

Definition of Eligible Individual

Sec. 1611. (a)(1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

(A) whose income, other than income excluded pursuant to section 1612(b), is at a rate of not more than $1,752 (or, if greater, the amount determined under section 1617)[1] for the calendar year 1974 or any calendar year thereafter, and

(B) whose resources, other than resources excluded pursuant to section 1613(a), are not more than (i) in case such individual has a spouse with whom he is living, $2,250, or (ii) in case such individual has no spouse with whom he is living $1,500,

shall be an eligible individual for purposes of this title.

(2) Each aged, blind, or disabled individual who has an eligible spouse and—

(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1612(b), is at a rate of not more than $2,628 (or, if greater, the amount determined under section 1617)[1] for the calendar year 1974, or any calendar year thereafter, and

(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1613(a), are not more than $2,250,

shall be an eligible individual for purposes of this title.

Amounts of Benefits

(b)(1) The benefit under this title for an individual who does not have an eligible spouse shall be payable at the rate of $1,752 (or, if greater, the amount determined under section 1617)[1] for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual.

(2) The benefit under this title for an individual who has an eligible spouse shall be payable at the rate of $2,628 (or, if greater, the amount determined under section 1617) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual and spouse.

Period for Determination of Benefits

(c)(1) An individual's eligibility for benefits under this title and the amount of such benefits shall be determined for each quarter of a calendar year except that, if the initial application for benefits is filed in the second or third month of a calendar quarter, such determinations shall be made for each month in such quarter. Eligibility for and the amount of such benefits for any quarter shall be redetermined at such time or times as may be provided by the Secretary.

(2) For purposes of this subsection an application shall be considered to be effective as of the first day of the month in which it was actually filed.

Special Limits on Gross Income

(d) The Secretary may prescribe the circumstances under which, consistently with the purposes of this title, the gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this title. For purposes of this subsection, the term "gross income" has the same meaning as when used in chapter 1 of the Internal Revenue Code of 1954.

Limitation on Eligibility of Certain Individuals

(e)(1)(A) Except as provided in subparagraph (B) and (C), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

(II) the applicable rate specified in section (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and

(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(C) As used in subparagraph (A), the term "public institution" does not include a publicly operated community residence which serves no more than 16 residents.

(2) No person shall be an eligible individual or eligible spouse for purposes of this title if, after notice to such person by the Secretary that it is likely that such person is eligible for any payments of the type enumerated in section 1612(a)(2)(B), such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of

this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approve for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this title. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

(4) *No benefit shall be payable under this title, except as provided in section 1619, with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).*

Suspension of Payments to Individuals Who Are Outside the United States

(f) Notwithstanding any other provision of this title, no individual shall be considered an eligible individual for purposes of this title for any month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this title with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

Certain Individuals Deemed To Meet Resources Test

(g) In the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under title I, X, XIV, or XVI,

(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that

the resources of such individual or individual and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

Certain Individuals Deemed To Meet Income Test

(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual with his spouse (as the case may be) who—

(1) receved aid or assistance for December 1973 under a plan of a State approved under title X or XVI,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1612 without application of this subsection.

Income

Meaning of Income

Sec. 1612. (a) For purposes of this title income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 203(f)(5)(C); [and]

(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a)(10), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

(C) remuneration received for services performed in a sheltered workshop or work activities center; and

(2) unearned income means all other income. including—

(A) support and maintenance furnished in cash or kind; except that (i) in the case of any individual (and his eligible spouse, of any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33⅓ percent in lieu of including such support and maintenance in the unearned income

of such individual (and spouse) as otherwise required by this subparagraph, (ii) in the case of any individual or his eligible spouse who resides in a nonprofit retirement home or similar nonprofit institution, support and maintenance shall not be included to the extent that it is furnished to such individual or such spouse without such institution receiving payment therefore (unless such institution has expressly undertaken an obligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefor is made by another nonprofit organization, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the seventeenth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief Act of 1974, and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe;

(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation and pensions, workmen's compensation payments, old-age, survivors, and disability insurance benefits, railroad retirement annuities and pensions, and unemployment insurance benefits;

(C) prizes and awards;

(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or $1,500, whichever is less;

(E) gifts (cash or otherwise), support and alimony payments, and inheritances; and

(F) rents, dividends, interest, and royalties.

Exclusions From Income

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first $240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) Monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.

(3)(A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first

$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

(6) assistance, furnished to or on behalf of such individual (and spouse), which is based on need and furnished by any State or political subdivision of a State;

(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

(9) if such individual is a child one-third of any payment for his suport received from an absent parent;

(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(11) assistance received under the Disaster Relief Act of 1974 or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President; and

(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period).

Resources

Exclusions From Resources

Sec. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) the home (including the land that appertains thereto);

(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable;

(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;

(4) such resource of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan;

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 7(h) and section 8(c) of the Alaska Native Claims Settlement Act; and

(6) assistance referred to in section 1612(b)(11) for the 9-month period beginning on the date such funds are received (or

for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term "assistance" includes interest thereon which is excluded from income under section 1612(b)(12).

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

Disposition of Resources

(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

Meaning of Terms

Aged, Blind, or Disabled Individual

Sec. 1614. (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

[(B) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).]

(B) is a resident of the United States, and is either (i) a citizen, or (ii) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or who has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act) and who has resided in the United States throughout the three-year period immediately preceding the month in which he applies for benefits under this title. For purposes of clause (ii), an alien shall not be required to meet the three-year residency requirement if (I) such alien has been lawfully admitted to the United States as a refugee as a result of the application of the provisions of section 203(a)(7) or has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act, or has been granted political

asylum by the Attorney General, or (II) such alien is blind (as determined under paragraph (2)) or disabled (as determined under paragraph (3)) and the medical condition which caused his blindness or disability arose after the date of his admission to the United States for permanent residence. For purposes of the preceding sentence, the medical condition which caused his blindness or disability shall be presumed to have arisen prior to the date of his admission to the United States for permanent residence if it was reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition existed and would result in blindness or disability within three years after such date of admission, and the medical condition which caused his blindness or disability shall be presumed to have arisen after such date of admission to the United States for permanent residence if the existence of such medical condition was not known on or before such date of admission, or, if the existence of such medical condition was known, it was not reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition would result in blindness or disability within three years after such date of admission.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists 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 preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. *In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficient severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.* Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of *subparagraph (F)* paragraph (4), shall be found not to be disabled.

(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.

(4)(A) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(B) The term "period of trial work", with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual which is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).

Eligible Spouse

(b) For purposes of this title, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who has not been living apart from such other aged, blind, or disabled individual for more than six months. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an "eligible individual" within the meaning of section 1611(a).

Definition of Child

(c) For purposes of this title, the term "child" means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

Determination of Marital Relationships

(d) In determining whether two individuals are husband and wife for purposes of this title, appropriate State law shall be applied; except that—

(1) if a man and woman have been determined to be husband and wife under section 216(h)(1) for purposes of title II they shall be considered (from and after the date of such determination or the date of their application for benefits under this title, whichever is later) to be husband and wife for purposes of this title, or

(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this title notwithstanding any other provision of this section.

United States

(e) For purposes of this title, the term "United States", when used in a geographical sense, means the 50 States and the District of Columbia.

Income and Resources of Individuals Other Than Eligible Individuals and Eligible Spouses

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age [21] *18*, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

* * * * * * *

Optional State Supplementation

Sec. 1616. (a) Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this title or who would but for their income be eligible to receive benefits under this title, as assistance based on need in supplementation of such benefits (as determined by the Secretary), shall be excluded under section 1612(b)(6) in determining the income of such individuals for purposes of this title and the Secretary and such State may enter into an agreement which satisfies subsection (b) under which the Secretary will, on behalf of such State (or subdivision) make such supplementary payments to all such individuals.

(b) Any agreement between the Secretary and a State entered into under subsection (a) shall provide—

(1) that such payments will be made (subject to subsection (c)) to all individuals residing in such State (or subdivision) who are receiving benefits under this title, and

(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary (subject to subsection (c)) to achieve efficient and effective administration of both the program which he conducts under this title and the optional State supplementation.

(c)(1) Any State (or political subdivision) making supplementary payments described in subsection (a) may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Secretary under such subsection, a residence requirement which excludes individuals who have resided in the State

(or political subdivision) for less than a minimum period prior to application for such payments.

(2) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a), may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.

* * * * * * *

Benefits for Individuals Who Perform Substantial Gainful Activity Despite Severe Medical Impairment

Sec. 1619. *(a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability, and would otherwise be denied benefits by reason of section 1611(e)(4), or who ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—*

(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

(b) Any individual who would qualify for a monthly benefit under subsection (a) except that his income exceeds the limit set forth in subsection (a)(2), and any blind individual who would qualify for a monthly benefit under section 1611 except that his income exceeds the limit set forth in subsection (a)(2), for purposes of title XIX and XX of this Act, shall be considered a blind or disabled individual receiving supplemental security income benefits under this title for so long as the Secretary determines under regulations that—

(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and titles XIX and XX.

Part B—Procedural and General Provisions

Payments and Procedures

Payment of Benefits

Sec. 1631. (a) (1) Benefits under this title shall be paid at such time or times and in such installments as will best effectuate the purposes of this title, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed $10).

(2) Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse). Notwithstanding the provisions of the preceding sentence, in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), the Secretary shall provide for making payments of the benefit to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse).

(3) The Secretary may by regulation establish ranges of incomes within which a single amount of benefits under this title shall apply.

(4) The Secretary—

(A) may make to any individual initially applying or benefits under this title who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding $100; and

(B) may pay benefits under this title to an individual applying for such benefits on the basis of disability or blindness for a period not exceeding 3 months prior to the determination of such individual's disability or blindness, if such individual is presumptively disabled or blind and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b) solely because such individual is determined not to be disabled or blind.

(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), and who ceases to be blind or to be under such disability, shall continue (so long as such individual is otherwise eligible)

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through the second month following the month in which such blindness or disability ceases.

(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

(B) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.

Overpayments and Underpayments

(b)(*1*) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this title.

(*2*) *For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1132.*

Hearings and Review

(c)(1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. *Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence and stating the Secretary's determination and the reason or reasons upon which it is based.* The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or re-

verse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205.

Procedures; Prohibition of Assignments; Representation of Claimants

(d)(1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

(2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph or which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

Applications and Furnishing of Information

(e)(1)(A) The Secretary shall, subject to subparagraph (B), prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this title.

(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this title will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct.

(2) In case of the failure by any individual to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this title as required by the Secretary under paragraph (1), or delay by any individual in submitting a report as so required, the Secretary (in addition to taking any other action he may consider appropriate under paragraph (1) shall reduce any benefits which may subsequently become payable to such individual under this title by—

(A) $25 in the case of the first such failure or delay,

(B) $50 in the case of the second such failure or delay, and

(C) $100 in the case of the third or a subsequent such failure or delay,

except where the individual was without fault or good cause for such failure or delay existed.

Furnishing of Information by Other Agencies

(f) The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

Reimbursement to States for Interim Assistance Payments

(g)(1) Notwithstanding subsection (d)(1) and subsection (b) as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political subdivision).

(2) For purposes of this subsection, the term "benefits" with respect to any individual means supplemental security income benefits under this title, and any State supplementary payments under section 1616 or under section 212 of Public Law 93-66 which the Secretary makes on behalf of a State (or political subdivision thereof), that the Secretary has determined to be due with respect to the individual at the

time the Secretary makes the first payment of benefits. A cash advance made pursuant to subsection (a)(4)(A) shall not be considered as the first payment of benefits for purposes of the preceding sentence.

(3) For purposes of this subsection, the term "interim assistance" with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs during the period, beginning with the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits.

(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

(B) that the State will comply with such other rules as the Secretary finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this title, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

(5) The provisions of subsection (c) shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

(6) [Repealed]

Payment of Certain Travel Expenses

(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.

* * * * * * *

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

Prohibition Against Any Federal Interference

Section 1801. Nothing in this title shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer of employee of any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or person.

Free Choice by Patient Guaranteed

Sec. 1802. Any individual entitled to insurance benefits under this title may obtain health services from any institution, agency, or person qualified to participate under this title if such institution, agency, or person undertakes to provide him such services.

Option to Individuals To Obtain Other Health Insurance Protection

Sec. 1803. Nothing contained in this title shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services.

Part A—Hospital Insurance Benefits for the Aged and Disabled

Description of Program

Sec. 1811. The insurance program for which entitlement is established by sections 226 and 226A provides basic protection against the cost of hospital and related post-hospital services in accordance with this part for (1) individuals who are age 65 or over and are entitled to retirement benefits under title II of this Act or under the railroad retirement system, (2) individuals under age 65 who have been entitled for not less than 24 [consecutive] months to benefits under title II of this Act or under the railroad retirement system on the basis of a disability, and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease.

Scope of Benefits

Sec. 1812. (a) The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1814(d)(2) to him (subject to the provisions of this part) for—

(1) inpatient hospital services for up to 150 days during any spell of illness minus one day for each day of inpatient hospital services.

(2) by the agency or organization which entered into such agreement at such time and upon such notice to the Secretary, to the public, and to the providers as may be provided in regulations, or

(3) by the Secretary at such time and upon such notice to the agency or organization, to the providers which have nominated it for purposes of this section, and to the public, as may be provided in regulations, but only if he finds, after applying the standards, criteria, and procedures developed under subsection (f) and after reasonable notice and opportunity for hearing to the agency or organization, that (A) the agency or organization has failed substantially to carry out the agreement, or (B) the continuation of some or all of the functions provided for in the agreement with the agency or organization is disadvantageous or is inconsistent with the efficient administration of this part.

(h) An agreement with an agency or organization under this section may require any of its officers or employees certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in carrying out the agreement, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(i)(1) No individual designated pursuant to an agreement under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbusing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

(3) No such agency or organization shall be liable to the United States for any payments referred to in paragraph (1) or (2).

Federal Hospital Insurance Trust Fund

Sec. 1817. (a) * * *

(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual costs or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any persons shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.

Enrollment Periods

Sec. 1837. (a) An individual may enroll in the insurance program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(b) No individual may enroll under this part more than twice.

(c) In the case of individuals who first satisfy paragraph (1) or (2) of section 1836 before March 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after the date of enactment of this title and shall end on May 31, 1966. For purposes of this subsection and subsection (d), an individual who has attained age 65 and who satisfies paragraph (1) of section 1836 but not paragraph (2) of such section shall be treated as satisfying such paragraph (1) on the first day on which he is (or on filing application would have been) entitled to hospital insurance benefits under part A.

(d) In the case of an individual who first satisfies paragraph (1) or (2) of section 1836 on or after March 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later. Where the Secretary finds that an individual who has attained age 65 failed to enroll under this part during his initial enrollment period (based on a determination by the Secretary of the month in which such individual attained age 65), because such individual (relying on documentary evidence) was mistaken as to his correct date of birth, the Secretary shall establish for such individual an initial enrollment period based on his attaining age 65 at the time shown in such documentary evidence (with a coverage period determined under section 1838 as though he had attained such age at that time).

(e) There shall be a general enrollment period, after the period described in subsection (c), during the period beginning on January 1 and ending on March 31 of each year beginning with 1969.

(f) Any individual—

(1) who is eligible under section 1836 to enroll in the medical insurance program by reason of entitlement to hosptial insurance benefits as described in paragraph (1) of such section, and

(2) whose initial enrollment period under subsection (d) begins after March 31, 1973, and

(3) who is residing in the United States, exclusive of Puerto Rico,

shall be deemed to have enrolled in the medical insurance program established by this part.

(g) All of the provisions of this section shall apply to individuals satisfying subsection (f), except that—

(1) in the case of an individual who satisfies subsection (f) by reason of entitlement to disability insurance benefits described in section 226(a)(2)(B), his initial enrollment period shall begin on the first day of the later of (A) April 1973 or (B) the third month before the 25th [consecutive] month of such entitlement, and shall reoccur with each continuous period of eligibility (as defined in section 1839(e)) and upon attainment of age 65;

(2)(A) in the case of an individual who is entitled to monthly benefits under section 202 or 223 on the first day of his initial enrollment period or becomes entitled to monthly benefits under section 202 during the first 3 months of such period, his enrollment shall be deemed to have occurred in the third month of his initial enrollment period, and

(B) in the case of an individual who is not entitled to benefits under section 202 on the first day of his initial enrollment period and does not become so entitled during the first 3 months of such period, his enrollment shall be deemed to have occurred in the month in which he files the application establishing his entitlement to hospital insurance benefits provided such filing occurs during the last 4 months of his initial enrollment period; and

(3) in the case of an individual who would otherwise satisfy subsection (f) but does not establish his entitlement to hospital insurance benefits until after the last day of his initial enrollment period (as defined in subsection (d) of this section), his enrollment shall be deemed to have occurred on the first day of the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section).

(h) In any case where the Secretary finds that an individual's enrollment or nonenrollment in the insurance program established by this part or part A pursuant to section 1818 is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such individual of a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

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TITLE XX—GRANTS TO STATES FOR SERVICES

* * * * * * *

Program Reporting

Sec. 2003. (a) Each State which participates in the program established by this title shall make such reports concerning its use of Federal social services funds as the Secretary may by regulation provide.

(b) Each State which participates in the program established by this title shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions thereof for the provision of services during each services program year (as established under the requirements of section 2002(a)(3)) with respect to which payment is made under section 2002 is not less than the aggregate expenditures from such appropriated funds for the provision of those services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under title I, VI, X, XIV, or XVI, or part A of title IV, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under section 2002, for each fiscal year any part of which is included in that services program year, with respect to expenditures other than expenditures for personnel training or retaining directly related to the provision of services, equals the allotment of the State for that fiscal year under section 2002(a)(2).

(c)(1) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that there is a substantial failure to comply with any of the requirements imposed by subsections (a) and (b) of this section, he shall, except as provided in paragraph (2), notify the State that further payments will not be made to the State under section 2002 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(2) The Secretary may suspend implementation of any termination of payments under paragraph (1) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2002 for expenditures during that period by 3 per centum for each of subsections (a) and (b) of this section with respect to which there was a finding of substantial noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

(d)(1) Each State which participates in the program established by this title shall have a plan applicable to its program for the provision of the services described in section 2002(a)(1) which—

(A) provides that an opportunity for a fair hearing before the appropriate State agency will be granted to any individual whose claim for any service described in section 2002(a)(1) is denied or is not acted upon with reasonable promptness;

(B) provides that the use or disclosure of information obtained in connection with administration of the State's program for the provision of the services described in section 2002(a)(1) concerning applicants for and recipients of those services will be restricted to purposes directly connected with the administration of that program, the plan of the State approved under part A of title IV, the plan of the State developed under part B of that title, the supplemental security income program established by title XVI, [or] the plan of the State approved under title XIX, *or any audit or similar activity conducted in connection with the administration of any such plan or program, by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity;*

(C) provides for the designation by the chief executive officer of the State or as otherwise provided by the laws of the State, of an appropriate agency which will administer or supervise the administration of the State's program for the provision of the services described in section 2002(a)(1);

(D) provides that the State will, in the administration of its program for the provision of the services described in section 2002(a)(1), use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the program, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(E) provides that no durational residency or citizenship requirement will be imposed as a condition to participation in

the program of the State for the provision of the services described in section 2002(a)(1);

(F) provides, if the State program for the provision of the services described in section 2002(a)(1) includes services to individuals living in institutions or foster homes, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions or homes which are reasonaly in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admissions policies, safety, sanitation, and protection of civil rights;

(G) provides, if the State program for the provision of the services described in section 2002(a)(1) includes child day care services, for the establishment or designation of a State authority

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the State for services to the aged, blind, or disabled related to blind individuals may be designated to administer or supervise the administration of the portion of the State's program for the provision of the services described in section 2002(a)(1) related to blind individuals and a separate State agency may be designated to administer or supervise the administration of the rest of the program; and in such case the part of the program which each agency administers, or the administration of which each agency supervises, shall be regarded as a separate program for the provision of the services described in section 2002(a)(1) for purposes of this title. The date selected by the State pursuant to section 2004(1) as the beginning of the services program year for each of the separate programs shall be the same.

(2) The Secretary shall approve any plan which complies with the provisions of paragraph (1).

(c)(1) No payment may be made under section 2002 to any State which does not have a plan approved under subsection (g).

(2) In the case of any State plan which has been approved by the Secretary under subsection (d), if the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds—

(A) that the plan no longer complies with the provisions of subsection (d)(1), or

(B) that in the administration of the plan there is a substantial failure to comply with any such provision,

the Secretary shall, except as provided in paragraph (3), notify the State that further payments will not be made to the State under section 2002 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(3) The Secretary may suspend implementation of any termination of payments under paragraph (2) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2002 for expenditures during that period by 3 percent for each clause of subsection (d)(1) with respect to which there is a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

(f) The provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be applicable to services provided by any State pursuant to this title with respect to individuals suffering from drug addiction or alcoholism.

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SELECTED PROVISIONS OF THE INTERNAL REVENUE CODE OF 1954

26 U.S.C. 1—

Subtitle C—Employment Taxes

* * * * * * *

SUBCHAPTER C—GENERAL PROVISIONS

SEC. 3121. DEFINITIONS.

(a) WAGES.—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * * * *

(6) the payment by an employer (without deduction from the remuneration of the employee)—

[(A) of the tax imposed upon an employee under section 3101 (or the corresponding section of prior law), or]

* * * * * * *

(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic service in a private home of the employer, or

(1) by which the contributions paid by such organization (or group) with respect to a period before the election provided by section 3309(a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of wages paid by it or service performed in its employ, whichever is appropriate.

(g) TRANSITIONAL RULE FOR UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1976, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions

into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309(a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating accounting of such organization (or group) or paid under the State law on the basis of such service performed in its employ or wages paid for such service, whichever is appropriate.

SEC. 3304. APPROVAL OF STATE LAWS.

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(17) (A) wage and other relevant information (including amounts earned, period for which reported, and name and address of employer), with respect to an individual, contained in the records of the agency administering the State law which is necessary (as jointly determining by the Secretary of Labor and the Secretary of Health, Education, and Welfare in regulations) for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 of the Social Security Act which has been approved by such Secretary under part D of title IV of such Act, and which information is specifically requested by such State or political subdivision for such purposes, and

(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);

[(17)] *(18)* all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.[1]

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), subsection (m)(4)(B), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

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(l) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

(1) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION AND RAILROAD RETIREMENT BOARD.—The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapter 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

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(5) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Upon written request by the Secretary of Health, Education, and Welfare, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program.

(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought

to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) *DISCLOSURE OF CERTAIN RETURN INFORMATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO STATE AND LOCAL WELFARE AGENCIES.—*

(A) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Officers and employees of the Social Security Administration shall, upon request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a)) and wages (as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, to other officers and employees of the Department of Health, Education, and Welfare for a necessary purpose described in section 463(a) of the Social Security Act.

(B) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION DIRECTLY TO STATE AND LOCAL AGENCIES.—Officers and employees of the Social Security Administration shall upon written request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a) and wages as defined in section 3121 (a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 463(a) of the Social Security Act.

(C) DISCLOSURE BY AGENCY ADMINISTERING STATE UNEMPLOYMENT COMPENSATION LAWS.—Officers and employees of a State agency, body, or commission which is charged under the laws of such State with the responsibility for the administration of State unemployment compensation laws approved by the Secretary of Labor as provided by section 3304 shall, upon written request, disclose return information with respect to wages (as defined in section

3306(b)) which has been disclosed to them as provided by this title directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 3304(a)(16) or (17).

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(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration.

(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary—

(1) returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration, and

(2) return information disclosed to officers or employees of a State or local agency, body, or commission as provided in subsection (l)(7) may be disclosed by such officers or employees to any person to the extent necessary in connection with the processing and utilization of such return information for a necessary purpose described in section 463(a) of the Social Security Act.

(p) PROCEDURE AND RECORDKEEPING.—

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(3) Records of inspection and disclosure.—

(A) System of recordkeeping.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (h)(1), (3)(A), or (4), (i)(4) or (6)(A)(ii), (k)(1), (2), or (6), [(l)(1) or (4)(B) or (5)] *(l)(1), (4)(B), (5), or* (7), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as

may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

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(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (i)(1), (2), or (5), (j)(1) or (2), (l)(1), (2), or (5), or (o)(1), the General Accounting Office, or any [agency, body, or commission described in subsection (d) or (l)(3) or (6)] *agency, body, or commission described in subsection (d) or (l)(3), (6), or (7)* shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of [an agency, body, or commission described in subsection (d) or (l)(6)] *an agency, body, or commission described in subsection (d) or (l)(6) or (7)*, return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

(ii) in the case of an agency described in subsections (h)(2), (i)(1), (2), or (5), (j)(1) or (2), (l)(1), (2), or (5), or (o)(1), the commission described in subsection (l)(3), or the General Accounting Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information.

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met.

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SEC. 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—

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(2) State and other employees.—It shall be unlawful for any officer, employee, or agent, or former officer, employee, or agent, of any State (as defined in section 6103(b)(5)), any local child support enforcement agency or any educational institution willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection [(d), (l)(6), or (m)(4)(B)] *subsection (d), (l)(6), or (7) or (m)(4)(B)* of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

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Excerpts From Public Law 93–66, As Amended

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TITLE II—PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

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Part B—Provisions Relating to Federal Program of Supplemental Security Income

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Supplemental Security Income Benefits For Essential Persons

SEC. 211. (a)(1) In determining (for purposes of Title XVI of the Social Security Act, as in effect after December 1973) the eligibility for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in subsection (b)), with respect to any period for which such individual has in his home an essential person (as defined in subsection (c))—

(A) the dollar amounts specified in subsection (a)(1)(A) and (2)(A), and subsection (b)(1) and (2), of section 1611 of such Act, shall each be increased by $876 for each such essential person, and

(B) the income and resources of such individual shall (for purposes of such title XVI) be deemed to include the income and resources of such essential person;

except that the provisions of this subsection shall not, in the case of any individual, be applicable for any period which begins in or after the first month that such individual—

(C) does not but would (except for the provisions of subparagraph (B)) meet—

(i) the criteria established with respect to income in section 1611(a) of such Act, or

(ii) the criteria established with respect to resources by such section 1611(a), (or, if applicable, by section 1611(g) of such Act).

(2) The provisions of section 1611(g) of the Social Security Act (as in effect after December 1973) shall, in the case of any qualified individual (as defined in subsection (b)), be applied so as to include, in the resources of such individual, the resources of any person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for the aid or assistance referred to in subsection (b)(1).

(b) For purposes of this section, an individual shall be a "qualified individual" only if—

(1) for the month of December 1973 such individual was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act, and

(2) in determining the need of such individual for such aid or assistance for such month under such State plan, there were taken into account the needs of a person (other than such individual) who—

(A) was living in the home of such individual, and

(B) was not eligible (in his or her own right) for aid or assistance under such State plan for such month.

(c) The term "essential person", when used in connection with any qualified individual, means a person who—

(1) for the month of December 1973 was a person (described in subsection (b)(2)) whose needs were taken into account in

determining the need of such individual for aid or assistance under a State plan referred to in subsection (b)(1) as such State plan was in effect for June 1973,

(2) lives in the home of such individual,

(3) is not eligible (in his or her own right) for supplemental security income benefits under title XVI of the Social Security Act (as in effect after December 1973), and

(4) is not the eligible spouse (as that term is used in such title XVI) of such individual or any other individual.

If for any month after December 1973 any person fails to meet the criteria specified in paragraph (2), (3), or (4) of the preceding sentence, such person shall not, for such month or any month thereafter be considered to be an essential person.

Mandatory Minimum State Supplementation of SSI Benefits Program

SEC. 212. (a)(1) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands (to be eligible for payments pursuant to title XIX, with respect to expenditures for any quarter beginning after December 1973, such State must have in effect an agreement with the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") whereby the State will provide to individuals residing in the State supplementary payments as required under paragraph (2).

(2) Any agreement entered into by a State pursuant to paragraph (1) shall provide that each individual who—

(A) is an aged, blind, or disabled individual (within the meaning of section 1614(a) of the Social Security Act, as enacted by section 301 of the Social Security Amendments of 1972), and

(B) for the month of December 1973 was a recipient of (and was eligible to receive) aid or assistance (in the form of money payments) under a State plan of such State (approved under title I, X, XIV, or XVI, of the Social Security Act)

shall be entitled to receive, from the State, the supplementary payments described in paragraph (3) for each month, beginning with January 1974, and ending with whichever of the following first occurs:

(C) the month in which such individual dies, or

(D) the first month in which such individual ceases to meet the condition specified in subparagraph (A);

except that no individual shall be entitled to receive such supplementary payment for any month, if, for such month, such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(c)(1)(A), (2), or (3), 1611(f), or 1615(c) of such Act.

(3)(A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection, shall (except as provided in subparagraph (D) and (E)) be an amount equal to (i) the amount by which such individual's "December 1973 income" (as determined under subparagraph (B)) exceeds the amount of such individual's "title XVI benefit plus other income" (as

determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

(B) For purposes of subparagraph (A), an individual's "December 1973 income" means an amount equal to the aggregate of—

(i) the amount of the aid or assistance (in the form of money payments) which such individual would have received (including any part of such amount which is attributable to meeting the needs of any other person whose presence in such individual's home is essential to such individual's well-being) for the month of December 1973 under a plan (approved under title I, X, XIV, or XVI, of the Social Security Act) of the State entering into an agreement under this subsection, if the terms and conditions of such plan (relating to eligibility for and amount of such aid or assistance payable thereunder) were, for the month of December 1973, the same as those in effect, under such plan, for the month of June 1973, together with the bonus value of food stamps for January 1972, as defined in section 401(b)(3) of Public Law 92–603, if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act, and (II) the level of which has been found by the Secretary pursuant to section 8 of Public Law 93–233 to have been specifically increased so as to include the bonus value of food stamps, and

(ii) the amount of the income of such individual (other than the aid or assistance described in clause (i)) received by such individual in December 1973, minus any such income which did not result, but which if properly reported would have resulted in a reduction in the amount of such aid or assistance.

(C) For purposes of subparagraph (A), the amount of an individual's "title XVI benefit plus other income" for any month means an amount equal to the aggregate of—

(i) the amount (if any) of the supplemental security income benefit to which such individual is entitled for such month under title XVI of the Social Security Act, and

(ii) the amount of any income of such individual for such month (other than income in the firm of a benefit described in clause (i)).

(D) If the amount determined under subparagraph (B)(i) includes, in the case of any individual, an amount which was payable to such individual solely because of—

(i) a special need of such individual (including any special allowance for housing, or the rental value of housing furnished in kind to such individual in lieu of a rental allowance) which existed in December 1973, or

(ii) any special circumstance (such as the recognition of the needs of a person whose presence in such individual's home, in December 1973, was essential to such individual's well-being),

and, if for any month after December 1973 there is a change with respect to such special need or circumstance which, if such change had existed in December 1973, the amount described in subparagraph (B)(i) with respect to such individual would have been reduced on account of such change, then, for such months and for each month thereafter the amount of the supplementary payment payable under

the agreement entered into under this subsection to such individual shall (unless the State, at its option, otherwise specifies) be reduced by an amount equal to the amount by which the amount (described in subparagraph (B)(i)) would have been so reduced.

(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title IV of the Social Security Act, such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title IV of the Social Security Act, and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act.

(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).

(b)(1) Any State having an agreement with the Secretary under subsection (a) may enter into an administration agreement with the Secretary whereby the Secretary will, on behalf of such State, make the supplementary payments required under the agreement entered into under subsection (a).

(2) Any such administration agreement between the Secretary and a State entered into under this subsection shall provide that the State will (A) certify to the Secretary the names of each individual who, for December 1973, was a recipient of aid or assistance (in the form of money payments) under a plan of such State approved under title I, X, XIV, or XVI of the Social Security Act, together with the amount of such assistance payable to each such individual and the amount of such individual's December 1973 income (as defined in subsection (a)(3)(B)), and (B) provide the Secretary with such additional data at such times as the Secretary may resonably require in order properly, economically, and efficiently to carry out such administration agreement.

(3) Any State which has entered into an administration agreement under this subsection shall, at such times and in such installments as may be agreed upon between the Secretary and the State, pay to the

Secretary an amount equal to the expenditures made by the Secretary as supplementary payments to individuals entitled thereto under the agreement entered into with such State under subsection (a).

(c)(1) Supplementary payments made pursuant to an agreement entered into under subsection (a) shall be excluded under section 1612(b)(6) of the Social Security Act (as in effect after December 1973) in determining income of individuals for purposes of title XVI of such Act (as so in effect).

(2) Supplementary payments made by the Secretary (pursuant to an administration agreement entered into under subsection (b)) shall, for purposes of section 401 of the Social Security Amendments of 1972, be considered to be payments made under an agreement entered into under section 1616 of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972); except that nothing in this paragraph shall be construed to waive, with respect to the payments so made by the Secretary, the provisions of subsection (b) of such section 401.

(d) For purposes of subsection (a)(1), a State shall be deemed to have entered into an agreement under subsection (a) of this section if such State has entered into an agreement with the Secretary under section 1616 of the Social Security Act under which—

(1) individuals, other than individuals described in subsection (a)(2)(A) and (B), are entitled to receive supplementary payments, and

(2) supplementary benefits are payable, to individuals described in subsection (a)(2)(A) and (B) at a level and under terms and conditions which meet the minimum requirements specified in subsection (a).

(e) Except as the Secretary may by regulations otherwise provide, the provisions of title XVI of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972), including the provisions of part B of such title, relating to the terms and conditions under which the benefits authorized by such title are payable shall, where not inconsistent with the purposes of this section, be applicable to the payments made under an agreement under subsection (b) of this section; and the authority conferred upon the Secretary by such title may, where appropriate, be exercised by him in the administration of this section.

(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act.

* * * * * * *

Excerpts From Public Law 95-216

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Amendments of 1977".

* * * * * * *

SEC. 301. (a) * * *

* * * * * * *

(c)(1) * * *

(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).

* * * * * * *

(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).

* * * * * * *

PART F—NATIONAL COMMISSION ON SOCIAL SECURITY

ESTABLISHMENT OF COMMISSION

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").

(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.

(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.

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.

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

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

(F) Members of the Commission shall be appointed for [a term of two years] *a term which shall end on April 1, 1981.*

(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 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.

(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.

(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.] *and the Commission shall cease to exist on April 1, 1981.*

(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.

(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.

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

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

(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.

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Section 7 of the Railroad Retirement Act

POWERS AND DUTIES OF THE BOARD

SEC. 7(a) * * *

* * * * * * *

(d)(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, posthospital extended care services, posthospital home health services, and outpatient hospital diagnostic services (all hereinafter referred to as "services") under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 8, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

(2) Except as otherwise provided in this subsection, every person who—

(i) has attained age 65 and (A) is entitled to an annuity under this Act or (B) would be entitled to such an annuity had he ceased compensated service and, in the case of a spouse, had such spouse's husband or wife ceased compensated service; or

(ii) has not attained age 65 and (A) has been entitled to an annuity under section 2 of this Act, or under the Railroad Retire-

ment Act of 1937 and section 2 of this Act, or could have been includible in the computation of an annuity under section 3(f)(3) of this Act, for not less than 24 [consecutive] months and (B) could have been entitled for 24 [consecutive] calendar months, and could currently be entitled, to monthly insurance benefits under section 223 of the Social Security Act or under section 202 of that Act on the basis of disability if service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act and if an application for disability benefits had been filed,

shall be certified to the Secretary of Health, Education, and Welfare as a qualified railroad retirement beneficiary under section 226 of the Social Security Act.

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Calendar No. 438

96TH CONGRESS
1ST SESSION

H. R. 3236

[Report No. 96-408]

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10 (legislative day, JUNE 21), 1979
Read twice and referred to the Committee on Finance

NOVEMBER 8 (legislative day, NOVEMBER 5), 1979
Reported by Mr. LONG, with an amendment, and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

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 "Disability Insurance Amendments of 1979".~~

~~TABLE OF CONTENTS~~

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 2. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and

self-employment income of an individual entitled to disability insurance benefits (whether or not such total benefits are otherwise subject to reduction under this subsection but in lieu of any reduction under this subsection which would otherwise be applicable) shall be reduced (before the application of section 224) to the smaller of—

"(A) 80 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 150 percent of such individual's primary insurance amount.".

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a) (6) and (7)" and inserting in lieu thereof "section 203(a) (7) and (8)".

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section

~~203(a) (as added by section 2(a)(3) of the Disability Insurance Amendments of 1979).''.~~

~~(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial eligibility for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) begins after 1978, and whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins after 1979.~~

~~REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS~~

~~SEC. 3. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:~~

~~''(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—~~

~~''(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and~~

~~''(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.~~

~~Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount after his attainment of age 65 or any subsequent eligibility for disability insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit. If an individual described in clause (ii) is determined in accordance with regulations of the Secretary to have been responsible for providing (and to have provided) the principal care of a child (of such individual or his or her spouse) under the age of 6 throughout more than 6 full months in any calendar year which is included in such individual's elapsed years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 5) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual provided such care throughout more than 6 full months in such year, (II) the particular calendar years to be~~

disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the smallest, and (III) this sentence shall apply only to the extent that its application would result in a higher primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.''.

(b) Section 223(a)(2) of such Act is amended by inserting ''and section 215(b)(2)(A)(ii)'' after ''section 202(q)'' in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins on or after January 1, 1980; except that the third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months after December 1980.

WORK INCENTIVE—SGA DEMONSTRATION PROJECT

SEC. 4. (a) The Commissioner of Social Security shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disad-

~~vantages of various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries to the end that savings will accrue to the Trust Funds.~~

~~(b) The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any prospective system either locally or nationally.~~

~~(c) In the case of any experiment or demonstration project under subsection (a), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner of Social Security~~

to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) The Commissioner of Social Security shall submit to the Congress no later than January 1, 1983, a final report on the experiments and demonstration projects carried out under this section together with any related data and materials which he may consider appropriate.

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

"(j) Expenditures made for experiments and demonstration projects under section 4 of the Disability Insurance Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 5. Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following

new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to the individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions.".

PROVISION OF TRIAL WORK PERIOD FOR DISABLED WIDOWS AND WIDOWERS; EXTENSION OF ENTITLEMENT TO DISABILITY INSURANCE AND RELATED BENEFITS

SEC. 6. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attain-

ing age 60, with the month in which such individual becomes so entitled.".

(3) The amendments made by this subsection shall apply with respect to individuals whose disability has not been determined to have ceased prior to the date of the enactment of this Act.

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof "or, if later (and subject to subsection (e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).".

(B) Section 202(d)(1)(G) of such Act is amended by—

(i) by redesignating clauses (i) and (ii) as clauses (I) and (II), respectively,

(ii) by inserting "the later of (i)" immediately before "the third month", and

(iii) by striking out "or (if later)" and inserting in lieu thereof the following: "(or, if later, and subject to section 223(e), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A)), or (ii)".

(C) Section 202(e)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the

fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).''.

(D) Section 202(f)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: ''or, if later (and subject to section 223(c)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A).''.

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

''(e) No benefit shall be payable under subsection (d), (e), or (f) of section 202 or under subsection (a)(1) to an individual for any month after the third month in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).''.

(3) Section 226(b) of such Act is amended—

(A) by striking out ''ending with the month'' in the matter following paragraph (2) and inserting in lieu thereof ''ending (subject to the last sentence of this subsection) with the month'' and

(B) by adding at the end thereof the following new sentence: ''For purposes of this subsection, an individual who has had a period of trial work which

ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.''.

(4) The amendments made by this subsection shall apply with respect to individuals whose disability or blindness (whichever may be applicable) has not been determined to have ceased prior to the date of the enactment of this Act.

ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

SEC. 7. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out ''consecutive'' in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out ''consecutive'' in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out ''consecutive''.

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were

of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.''.

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for months after the month in which this Act is enacted.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY ALLOWANCES

SEC. 8. (a) Section 221(a) of the Social Security Act is amended to read as follows:

''(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does

not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may make again disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt,

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

"(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.".

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).".

(c) Section 221(c) of such Act is amended to read as follows:

"(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as

defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is not under a disability (as so defined) or that such individual's disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination and before any benefits are paid on the basis thereof.

"(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1980,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1981, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1981.".

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(c) The first sentence of section 221(c) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

(h) The Secretary of Health, Education, and Welfare shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate by January 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan,

recommendations for such amendment should be included in the plan for action by such committees, or for submittal by such committees with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 9. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentences: "Any such decision by the Secretary shall contain a statement of the case setting forth (1) a citation and discussion of the pertinent law and regulation, (2) a list of the evidence of record and a summary of the evidence, and (3) the Secretary's determination and the reason or reasons upon which it is based.

(b) The amendment made by subsection (a) shall apply with respect to decisions made on and after the first day of the second month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 10. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a

valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).''.

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting ''(and shall be deemed to have been filed on such first day)'' immediately after ''shall be deemed a valid application'' in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof ''and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).'', and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting ''(and shall be deemed to have been filed in such first month)'' immediately after

"shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 11. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is

good cause for the failure to incorporate such evidence into the record in a prior proceeding;".

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 12. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than January 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within

which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

VOCATIONAL REHABILITATION SERVICES FOR DISABLED INDIVIDUALS

SEC. 13. (a) Section 222(d) of the Social Security Act is amended to read as follows:

"Costs of Rehabilitation Services From Trust Funds

"(d)(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse—

"(i) the general fund in the Treasury of the United States for the Federal share, and

"(ii) the State for twice the State share,

of the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in their performance of substantial gainful activity which lasts for a continuous period of 12 months, or which result in their employment for a continuous period of 12 months in a sheltered workshop meeting the requirements applicable to a nonprofit rehabilitation facility under paragraphs (8) and (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and (10)(L)). The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity or their employment in sheltered workshops, and the determination of the amount of

costs to be reimbursed under this subsection, shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

"(2) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

"(3) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

"(A) the total amount to be reimbursed for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

"(4) For the purposes of this subsection the term 'vocational rehabilitation services' shall have the meaning assigned

it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.

"(5) The Secretary is authorized and directed to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries under this title to the end that maximum savings will result to the Trust Funds. On or before January 1, 1980, the Secretary shall transmit to the President and the Congress a report which shall contain his findings and any conclusions and recommendations he may have.".

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1981.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 14. (a) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental im-

pairment on which the individual's entitlement to such benefits is based has or may have ceased if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(b) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 15. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.".

(b) The amendment made by subsection (a) shall apply with respect to evidence supplied on or after the date of the enactment of this Act.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 16. Section 201 of the Social Security Act (as amended by section 4(c) of this Act) is amended by adding at the end thereof the following new subsection:

"(k) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under section 221, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to such determinations. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailabil-

ity of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 17. Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) In any case where an individual is or has been determined to be under a disability, unless a finding is or has been made that such disability is permanent, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.".

That this Act may be cited as the "Social Security Disability Amendments of 1979".

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TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and

self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced, (before the application of section 224) to the smaller of—

"(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 160 percent of such individual's primary insurance amount.".

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a) (6) and (7)" and inserting in lieu thereof "section 203(a) (7) and (8)".

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of sec-

tion 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1979).".

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after 1979.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by 1 year or, if greater, the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.".

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits after 1979.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided after June 1980.

CONTINUATION OF MEDICARE ELIGIBILITY

SEC. 104. (a) Section 226(b) of such Act is amended—

(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has

subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.".

(b) The amendment made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER SSI

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Title XVI of the Social Security Act is amended by adding after section 1618 the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

"SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability, and would otherwise be denied benefits by reason of

section 1611(e)(4), or who ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

"(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

"(b) Any individual who would qualify for a monthly benefit under subsection (a) except that his income exceeds the limit set forth in subsection (a)(2), and any blind indi-

vidual who would qualify for a monthly benefit under section 1611 except that his income exceeds the limit set forth in subsection (a)(2), for purposes of titles XIX and XX of this Act, shall be considered a blind or disabled individual receiving supplemental security income benefits under this title for so long as the Secretary determines under regulations that—

"(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and titles XIX and XX.".

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.".

(2) Section 212(a) of Public Law 93–66 is amended by adding at the end thereof the following new paragraph:

"(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).".

(c) The amendments made by this section shall become effective on July 1, 1980, but shall remain in effect only for a period of three years after such effective date.

(d) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by this section so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) remuneration received for services performed in a sheltered workshop or work activities center; and".

(b) The amendments made by this section shall apply only with respect to remuneration received in months after June 1980.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall become effective on July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in June 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(2) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

(b) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(c) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 302. (a) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(b) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(c) The amendments made by this section shall apply with respect to expenses incurred on or after July 1, 1980.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out "or the third month following the month in which his disability ceases." at the end of the first sentence and inserting in lieu thereof "or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity),".

(C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the

last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be

the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).".

(c)(1)(A) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title, except as provided in section 1619, with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month in which he engages in substantial gainful activity during the fifteen-month period fol-

lowing the end of his trial work period determined by application of section 1614(a)(4)(D)(i).".

(d) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows:

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the

finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt,

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

"(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.".

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).".

(c) Section 221(c) of such Act is amended to read as follows:

"(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are or are not under

disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination.

"(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.".

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

(h) The Secretary of Health, Education, and Welfare shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(c) The amendments made by this section shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).".

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to

be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;".

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 308. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.".

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after July 1, 1980.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title.".

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection:

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably nec-

essary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The

amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for,

any other reviews which are required or provided for under or in the administration of this title.".

(b) The amendment made by this section shall become effective on the first day of the thirteenth month that begins after the date of the enactment of this Act.

SCOPE OF FEDERAL COURT REVIEW

SEC. 312. Section 205(g) of the Social Security Act is amended by striking out "if supported by substantial evidence" and inserting in lieu thereof "unless found to be arbitrary and capricious".

REPORT BY SECRETARY

SEC. 313. The Secretary of Health, Education, and Welfare shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking so much of subparagraph (A) as follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall

register for manpower services, training, employment, and other employment-related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) in clause (vi) of subparagraph (A), by striking out "under section 433(g)";

(3) by striking out the word "or" after clause (v);

(4) by adding the word "or" after clause (vi); and

(5) by adding after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;".

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid".

(c) Section 402(a)(19)(D) of such Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)".

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, in the matter preceding clause (i), "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" and inserting in lieu thereof "(and for such period as is prescribed under joint regulations

of the Secretary and the Secretary of Labor) any child, relative or individual", and

(2) by inserting "and" at the end of clause (iv), and by striking so much of such subparagraph (F) as follows clause (iv).

(e) Section 402(a)(19)(G) of such Act is amended—

(1) in clause (i), by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3))" immediately after "administrative unit",

(2) by striking out, in clause (ii), "subparagraph (A)," and inserting in lieu thereof "subparagraph (A) of this paragraph, (I)",

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b) (1), (2), or (3)", and

(4) by striking out, in clause (ii), "employment or training under part C," and inserting in lieu thereof "employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, and (III) for a period

deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,".

(f) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b)(1), (2), or (3)".

(g) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.".

(h) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on January 1, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

SEVENTY-FIVE PERCENT FEDERAL MATCHING FOR CERTAIN EXPENDITURES FOR INVESTIGATING AND PROSECUTING CASES OF FRAUD UNDER STATE AFDC PLANS

SEC. 402. (a) Section 403(a)(3) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by adding after subparagraph (A) the following new subparagraph:

"(B) 75 per centum of so much of such expenditures as are directly attributable to costs incurred (as found necessary by the Secretary) (i) in the establishment and operation of one or more identifiable fraud control units the purpose of which is to investigate and prosecute cases of fraud in the provision and administration of aid provided under the State plan, (ii) in the investigation and prosecution of such cases of fraud by attorneys employed by the State agency or by local agencies administering the State plan in a locality within the State, and (iii) in the investigation and prosecution of such cases of fraud by

attorneys retained under contract for that purpose by the State agency or such a local agency, and".

(b) Section 403(a)(3) of the Social Security Act (as amended by subsection (a) of this section) is further amended by inserting immediately before the semicolon at the end thereof the following: ", and no payment shall be made under subparagraph (B) unless the State agrees to pay to any political subdivision thereof, an amount equal to 75 per centum of so much of the administrative expenditures described in such subparagraph as were made by such political subdivision".

(c) The amendments made by this section shall be applicable only with respect to expenditures, referred to in section 403(a)(3)(B) of the Social Security Act (as amended by this section), made on or after April 1, 1980.

USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

SEC. 403. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting "(or undertaken to be collected by such State pursuant to section 454(6))" immediately after "assigned to such State".

(b) The amendment made by this section shall take effect January 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION UNDER AFDC AND SOCIAL SERVICE PROGRAMS

SEC. 404. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B) thereof,

(2) by inserting immediately after "need" at the end of clause (C) thereof the following: ", and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity", and

(3) by inserting "(other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any governmental entity referred to in clause (D) with respect to an activity referred to in such clause)" immediately after "committee or a legislative body".

(b) Section 2003(d)(1)(B) of the Social Security Act is amended—

(1) by striking out "XVI, or" and inserting in lieu thereof "XVI,", and

(2) by inserting immediately after "XIX" the following: ", or any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity".

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

SEC. 405. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter (beginning with the quarter which commences January 1, 1980) for the operation of the plan approved under section 454, so much of the expenditures of courts (including, but not limited to, expenditures for or in connection with judges, or other individuals making judicial determinations, and other support and administrative personnel) of such State (or political subdivisions thereof) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in

any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

"(3) So much of the payment to a State under subsection (a) for any quarter as is payable by reason of the provisions of this subsection may, if the law (or procedures established thereunder) of the State so provides, be made directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.".

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 455(a) of the Social Security Act is amended by—

(1) striking out "and" at the end of clause (1),

(2) inserting "and" at the end of clause (2), and

(3) adding after and below clause (2) the following new clause:

"(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454(16);".

(b) Section 454 of such Act is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding after paragraph (15) the following new paragraph:

"(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient com-

patibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the

State plan from initial referral or application through collection and enforcement.".

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

"(G) provides such other information as the Secretary determines under regulation is necessary.

"(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under section 452(d)(1) and the conditions specified under section 454(16).

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(d) Section 452 of the Social Security Act is further amended by inserting after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3) of this Act.".

(e) The amendments made by this section shall take effect on January 1, 1980, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 407. (a) Section 403(a)(3) of the Social Security Act is amended by—

(1) striking out "and" at the end of subparagraph (B) (as added by section 402(a) of this Act);

(2) redesignating subparagraph (C) thereof (as redesignated by section 402(a) of this Act) as subparagraph (E); and

(3) by adding after subparagraph (B) (as redesignated by such section) the following new subparagraphs:

"(C) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX,

"(D) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (C) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and".

(b)(1) Section 402(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of subparagraph (28),

(B) by striking out the period at the end of subparagraph (29) and inserting in lieu of such period the following: "; and", and

(C) by adding after and below subparagraph (29) thereof the following new subparagraph:

"(30) at the option of the State, provide, effective April 1, 1980 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including post-

al ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he

finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system referred to in section 403(a)(3)(D), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing descriptions, proposed ac-

ceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

"(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(C), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(C) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Title IV of the Social Security Act is further amended by inserting after section 411 the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 412. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(C) of this Act.".

(d) The amendments made by this section shall take effect on April 1, 1980.

EXPENDITURES FOR THE OPERATION OF STATE PLANS FOR CHILD SUPPORT

SEC. 408. (a) Section 455(b)(2) of such Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (d), the Secretary".

(b) Section 455 is further amended by adding after subsection (c) thereof (as added by section 405 of this Act) the following new subsection:

"(d) Notwithstanding any other provisions of law, no amount shall be paid to any State under this section for the quarter commencing July 1, 1980, or for any succeeding quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two

quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c)(1) Section 403(b)(2) of the Social Security Act is amended—

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

(B) by adding immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section".

(2) The amendments made by paragraph (1) shall be effective in the case of calendar quarters commencing after the date of enactment of this Act.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT STATE PLANS FOR CHILD SUPPORT

SEC. 409. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ACCESS TO WAGE INFORMATION

"SEC. 463. (a) Notwithstanding any other provision of law, the Secretary shall make available to any State (or political subdivision thereof) wage information (other than returns or return information as defined in section 6103(b) of the Internal Revenue Code of 1954), including amounts earned, period for which it is reported, and name and address of employer, with respect to an individual, contained in the records of the Social Security Administration, which is necessary for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 which has been approved by the Secretary under this part, and which information is specifically requested by such State or political subdivision for such purposes.

"(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.

"(c) For disclosure of return information (as defined in section 6103(b) of the Internal Revenue Code of 1954) contained in the records of the Social Security Administration

for purposes described in paragraph (a), see section 6103(l)(7) of such Code.".

(b) Section 3304(a) of the Federal Unemployment Tax Act is amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

"(17)(A) wage and other relevant information (including amounts earned, period for which reported, and name and address of employer), with respect to an individual, contained in the records of the agency administering the State law which is necessary (as jointly determined by the Secretary of Labor and the Secretary of Health, Education, and Welfare in regulations) for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 of the Social Security Act which has been approved by such Secretary under part D of title IV of such Act, and which information is specifically requested by such State or political subdivision for such purposes, and

"(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)(1) Section 6103(l) of the Internal Revenue Code of 1954 is amended by inserting after paragraph (6) the following new paragraph:

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO STATE AND LOCAL WELFARE AGENCIES.—

"(A) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Officers and employees of the Social Security Administration shall, upon request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a)) and wages (as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, to other officers and employees of the Department of Health, Education, and Welfare for a necessary purpose described in section 463(a) of the Social Security Act.

"(B) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION DIRECTLY TO STATE AND LOCAL AGENCIES.—Officers and employees of

the Social Security Administration shall, upon written request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a) and wages as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 463(a) of the Social Security Act.

"(C) DISCLOSURE BY AGENCY ADMINISTERING STATE UNEMPLOYMENT COMPENSATION LAWS.—Officers and employees of a State agency, body, or commission which is charged under the laws of such State with the responsibility for the administration of State unemployment compensation laws approved by the Secretary of Labor as provided by section 3304 shall, upon written request, disclose return information with respect to wages (as defined in section 3306(b)) which has been disclosed to them as provided by this title directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 3304(a) (16) or (17).".

(2) Section 6103(n) of the Internal Revenue Code of 1954 is amended to read as follows:

"(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary—

"(1) returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programing, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration, and

"(2) return information disclosed to officers or employees of a State or local agency, body, or commission as provided in subsection (l)(7) may be disclosed by such officers or employees to any person to the extent necessary in connection with the processing and utilization of such return information for a necessary purpose described in section 463(a) of the Social Security Act.".

(3) Paragraph (3)(A) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(4) Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out "agency, body, or commission described in subsection (d) or (l) (3) or (6)" and inserting in lieu thereof "agency, body, or commission described in subsection (d) or (l) (3), (6), or (7)".

(5) Subparagraph (F)(i) of paragraph (4) of section 6103(p)(4) of the Internal Revenue Code of 1954 is amended by striking out "an agency, body, or commission described in subsection (d) or (l)(6)" and inserting in lieu thereof "an agency, body, or commission described in subsection (d) or (l) (6) or (7)".

(6) The first sentence of paragraph (2) of section 7213(a) of the Internal Revenue Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6) or (7), or (m)(4)(B)".

(d) The amendments made by this section shall take effect on January 1, 1980.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFIT UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1132. Notwithstanding any other provision of this Act, in any case where an individual—

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

*"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93–66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first

month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1132.".

(c) Section 1631(b) of such Act is amended by—

(1) inserting "(1)" immediately after "(b)", and

(2) adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1132.".

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined after March 31, 1980.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981.".

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYEES

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and".

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980.

(c) The provisions of section 7 of Public Law 94–202 shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (a) of this section.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(a)(1)(B) of the Social Security Act is amended to read as follows:

"(B) is a resident of the United States, and is either (i) a citizen, or (ii) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or who has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act) and who has resided in the United States throughout the 3-year period immediately preceding the month in which he applies for benefits under this title. For purposes of clause (ii), an alien shall not be required to meet the 3-year residency requirement if (I) such alien has been lawfully admitted to the United States as a refugee as a result of the application of the provisions of section 203(a)(7) or has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act, or has been granted political asylum by the Attorney General, or (II) such alien is blind (as determined under paragraph (2)) or disabled (as determined under paragraph (3)) and the medical condition

which caused his blindness or disability arose after the date of his admission to the United States for permanent residence. For purposes of the preceding sentence, the medical condition which caused his blindness or disability shall be presumed to have arisen prior to the date of his admission to the United States for permanent residence if it was reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition existed and would result in blindness or disability within 3 years after such date of admission, and the medical condition which caused his blindness or disability shall be presumed to have arisen after such date of admission to the United States for permanent residence if the existence of such medical condition was not known on or before such date of admission, or, if the existence of such medical condition was known, it was not reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition would result in blindness or disability within 3 years after such date of admission.".

(b) The amendment made by subsection (a) shall apply only with respect to aliens applying for supplemental security income benefits under title XVI of the Social Security Act on or after January 1, 1980.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 505. (a) The Secretary of Health, Education, and Welfare is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health, Education, and Welfare. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of $2,000,000 for any fiscal year) as may be necessary.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 506. (a)(1) The Secretary of Health, Education, and Welfare shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits

based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions application to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thor-

ough evaluation of the alternative methods under considera-tion. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary of Health, Education, and Welfare to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) The Secretary of Health, Education, and Welfare shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this section together with any related data and materials which he may consider appropriate.

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

"(k) Expenditures made for experiments and demonstration projects under section 506(a) of the Social Security Disability Amendments of 1979 shall be made from the Fed-

eral Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

(b) The Secretary of Health, Education, and Welfare is authorized to waive any of the requirements, conditions, or limitations of title XVI of the Social Security Act (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of such Act or any other Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefits) to which the project (or part of a project) is most closely related or which the

project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616 of such Act), or to provide medical assistance under its plan approved under title XIX of such Act, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI of such Act.

(c) Any requirements of title II of Public Law 93–348 otherwise held applicable are hereby waived with respect to conditions of payment of benefits under title II or XVI of the Social Security Act or to coverage, or copayments, deductibles, or other limitations on payment for services (whether of general application or in effect only on a trial or demonstration basis) under programs established under titles XVIII and XIX of such Act. Notwithstanding the first sentence of this subsection, the Secretary of Health, Education, and Welfare in carrying out, approving, or reviewing any application for, any experimental, pilot, or demonstration project pursuant to the Social Security Act or this Act shall apply any appropriate requirements of title II of Public Law

93–348 and any regulations promulgated thereunder in making his decision on whether to approve such application.

(d) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this subsection no later than five years after the date of the enactment of this Act.

INCLUSION IN WAGES OF FICA TAXES PAID BY EMPLOYER

SEC. 507. (a) Section 209(f) of the Social Security Act is amended by striking out all that follows "(without deduction from the remuneration of the employee)" and inserting in lieu thereof "(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 for wages paid for domestic service in a private home of the employer, or (2) of any payment required from an employee under a State unemployment compensation law;".

(b) Section 3121(a)(6)(A) of the Internal Revenue Code of 1954 is amended to read as follows:

> *"(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic service in a private home of the employer, or".*

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1980.

Amend the title so as to read "An Act to amend the Social Security Act to provide better work incentives and

improved accountability in the disability programs, and for other purposes.".

Calendar No. 438

96TH CONGRESS
1ST SESSION

H. R. 3236

[Report No. 96-408]

AN ACT

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

SEPTEMBER 10 (legislative day, JUNE 21), 1979

Read twice and referred to the Committee on Finance

NOVEMBER 8 (legislative day, NOVEMBER 5), 1979

Reported with an amendment and an amendment to the title

LEGISLATIVE REPORT

SOCIAL SECURITY ADMINISTRATION

Number 4

November 20, 1979

STATUS OF DISABILITY, WELFARE REFORM, AND OTHER SSA-RELATED LEGISLATION

Senate Finance Committee Reports Disability Legislation (H.R. 3236)

On November 8, the Senate Finance Committee reported H.R. 3236 which makes changes in the social security disability cash insurance, supplemental security income, AFDC, and child support enforcement (CSE) programs. The committee-approved bill amends and consolidates provisions of the House-approved disability legislation, H.R. 3236 (social security disability insurance) and H.R. 3464 (supplemental security income disability). In addition, amendments to the AFDC and CSE programs were added. Attachment 1 contains a summary of the provisions of the House-passed and Senate-reported legislation. Senate debate on the bill is expected to occur before the end of this year.

House Passes Welfare Reform Legislation (H.R. 4904)

On November 7, the House passed a modified version of the Administration's welfare reform legislation (H.R. 4904) by a vote of 222-184.

The bill passed the House as reported by the Committee on Ways and Means except for an amendment by Representative Jeffords. The amendment would permit the Secretary of Agriculture, at the request of a Governor, and in accordance with arrangements entered into with the Secretary of Health, Education, and Welfare, to pay cash, in lieu of food stamps, to households eligible for food stamps and not entitled to SSI if all members of the household are over age 65 or, in the U.S. territories, eligible for aid to the blind and disabled. The attached excerpt (attachment 2) from the Committee on Ways and Means report provides a sectional summary of the reported bill.

House Ways and Means Committee Reports Monthly Earnings Test Legislation (H.R. 5295)

On October 19, the Committee on Ways and Means reported H.R. 5295, a bill to restore the monthly measure of the social security retirement test in limited situations. The committee-approved bill includes the Administration proposals to:

- restore the monthly earnings test in the year benefits end for certain classes of beneficiaries (children and young parents) and
- permit people to apply for Medicare benefits without also having to apply for retirement benefits.

In addition, the bill would:

- o allow all beneficiaries to use the monthly earnings test in 1 year after 1977 and
- o exclude from the earnings test deferred income earned by self-employed people prior to their entitlement.

House Passes Interim Measure on Independent Contractors (H.R. 5505)

On October 30, the House passed H.R. 5505, a bill "to simplify certain provisions of the Internal Revenue Code of 1953, and for other purposes." Section 12(d) of H.R. 5505 amends the Revenue Act of 1978 to extend through 1980 the period of interim relief from payment of employment taxes provided in the 1978 Act for businesses that have been treating workers as independent contractors rather than employees.

This extension would give the Congress another year to arrive at a permanent solution to the independent contractor problem. The Ways and Means Subcommittee on Select Revenue Measures is continuing to mark up H.R. 5460 which would provide a permanent solution.

Stanford G. Ross
Commissioner

Attachments

Comparison of House-Passed Versions of H.R. 3236 and H.R. 3464
with Decisions of the Senate Finance Committee (SFC)

I. OASDI PROVISIONS

FAMILY BENEFIT CAP

House—H.R. 3236 would limit family benefits in disability cases to the lesser of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of his primary insurance amount (PIA), but no less than 100 percent of the PIA. Effective for individuals eligible for benefits after 1978 and who become entitled to disability benefits (with respect to the current period of disability) after 1979.

SFC—Family benefits in disability cases would be limited to the lesser of 85 percent of the AIME or 160 percent of the PIA, but no less than 100 percent of the PIA. Effective for individuals eligible for benefits after 1978 who were never entitled to disability benefits before 1980.

VARIABLE DROPOUT YEARS

House—H.R. 3236 provides dropout years for disabled workers as follows:

Worker's Age	Number of Dropout Years
Under 27	0
27-31	1
32-36	2
37-41	3
42-46	4
47 and over	5

A worker would also get 1 dropout year for each year in which he provided principal care of a child under age 6. However, the number of dropout years could not exceed 5. Effective for individuals who become entitled to disability benefits (with respect to the current period of disability) after 1979, except that the childcare provision would be effective for monthly benefits after 1980.

SFC—Dropout years for disabled workers would be:

Worker's Age	Number of Dropout Years
Under 32	1
32-36	2
37-41	3
42-46	4
47 and over	5

There is no provision for dropout years based on childcare. Effective for individuals who were never entitled to disability benefits before 1980.

DEMONSTRATION AUTHORITY

House—H.R. 3236 requires the Commissioner to conduct demonstration projects and experiments (to test effect of substantial gainful activity (SGA) alternatives on attempts to return to work) and to report his findings by January 1, 1983. Affects only DI and Medicare.

SFC—Agreed with House-passed provision, but broadened demonstration authority to cover other areas of the DI program beyond experiments on stimulating a return to work; e.g., experiments with Medicare waiting period, program administration, early referral for rehabilitation.

WORK EXPENSE DEDUCTIONS

House—H.R. 3236 allows deductions in DI cases of the cost of impairment-related services and devices and attendant care costs from earnings in determining SGA if they are necessary for the beneficiary to work and if the beneficiary pays for them. Effective on enactment.

SFC—Modified House bill to allow deductions for impairment-related work expenses even where the disabled person does not pay the costs of the expenses and added language giving the Secretary the authority to specify in regulations the type of care, services, and items that may be considered necessary to enable a person to engage in SGA, as well as giving the Secretary authority to set reasonable limits on the amount of earnings that can be excluded. Effective July 1, 1980.

TRIAL WORK PERIOD FOR DISABLED WIDOWS AND WIDOWERS

House—H.R. 3236 extends the trial work period to disabled widows and widowers. Effective for DI beneficiaries whose disability has not been determined to have ceased before enactment.

SFC—Approved House provision.

AUTOMATIC REENTITLEMENT FOR DI

House—H.R. 3236 provides automatic reentitlement to DI beneficiaries for 12 consecutive calendar months after they have completed a trial work period (TWP) and whose benefits stop because of substantial gainful activity. No new determination of disability would be required. Effective for individuals whose disability has not been determined to have ceased before enactment.

SFC—Approved House provision but with July 1, 1980 effective date.

EXTENSION OF ENTITLEMENT FOR MEDICARE

House--H.R. 3236 extends Medicare for DI beneficiaries (who have not medically recovered) for the proposed 12-month automatic reentitlement period (above) following the TWP and for an additional 24 months. Effective for individuals whose disability has not been determined to have ceased before enactment.

SFC—Approved House provision but with July 1, 1980 effective date.

MEDICARE WAITING PERIOD

House—H.R. 3236 provides that months in the 24-month Medicare waiting period need not be consecutive. Thus, it provides that, for former DI beneficiaries who become disabled again within a certain time period (60 months for disabled workers), any months which counted toward meeting the 24-month Medicare waiting period requirement will count toward meeting that requirement in the subsequent period of disability. Effective with respect to Medicare benefits for months after the month of enactment.

SFC--Approved House provision but with July 1, 1980 effective date.

ADMINISTRATION OF THE DISABILITY INSURANCE PROGRAM [1/]

House—H.R. 3236 gives the Secretary the authority to establish, through regulations, procedures and performance standards for the State disability determination process. In the event of unsatisfactory State performance, the Secretary could take over the administration of the State determination process. Effective with the twelfth month following the month of enactment. Requires the Secretary to report to Congress by January 1, 1980 on contingency plan for Federal assumption of State functions and operations.

SFC—Approved House provision but with report on contingency plan due by July 1, 1980.

FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

House—H.R. 3236 requires the Secretary to review, on a preeffectuation basis, State agency allowances, according to the following schedule:

—at least 15 percent in FY 1980;

—at least 35 percent in FY 1981; and

—at least 65 percent in FY 1982 and thereafter.

1/ Also applies to SSI program.

SFC—Authorizes the Secretary to review State agency decisions that are unfavorable to the claimant. Requires Secretary to review on a preeffectuation basis, both State agency allowances and denials, according to the following schedule:

—15 percent of national workload in FY 1981;

—35 percent of national workload in FY 1982; and

—65 percent of national workload in years thereafter.

SSA to determine on a State-to-State basis whether the percentage of decisions reviewed should be higher or lower than national percentage goals. 2/

DETAILED DENIAL NOTICES

House—H.R. 3236 requires that any OASDI decision notice from the Secretary contain a statement of the case citing pertinent law and regulations, a summary of the evidence, and reasons for the decision. Effective second month after the month of enactment.

SFC—Requires that disability denial notices be expressed in language understandable to the claimant and include a discussion of the evidence and reasons why the disability claim was denied. Effective thirteenth month after the month of enactment.

CLOSED EVIDENTIARY RECORD

House—H.R. 3236 forecloses the introduction of new evidence in a claim after the decision is made at a hearing. Effective on enactment.

SFC—Approved House provision.

LIMITATION ON COURT REMANDS 3/

House—H.R. 3236 permits OASDI cases to be remanded from courts on the Secretary's motion only for "good cause" shown, and on court's own motion only if there is new evidence that was not previously submitted and there is good cause for not having submitted the evidence. Effective on enactment.

SFC—Approved House provision.

2/ SFC report states Committee expects the review procedures implemented by SSA will be applied to the SSI program (as well as the title II program). However, the specified percentage goals would have to be measured only for the title II program.

3/ Also applies to SSI program.

STUDY OF TIME LIMITS FOR DECISIONS ON BENEFIT CLAIMS

House—H.R. 3236 requires the Secretary to report to the Congress by January 1, 1980 on appropriate time limits within which a decision should be made in initial, reconsideration, hearing, and Appeals Council cases under OASDI.

SFC—Approved House provision but moved report date to July 1, 1980.

FINANCING VR SERVICES

House—H.R. 3236 provides a bonus to State agencies for VR services that result in a DI beneficiary engaging in substantial gainful activity (or employment in a sheltered workshop) for 12 continuous months. Effective beginning fiscal year 1982.

SFC—Deleted provision.

CONTINUING DI BENEFITS FOR PERSONS IN VR PLAN 4/

House—H.R. 3236 permits benefits to continue after medical recovery for persons in approved VR programs if SSA determines that the continuance will increase the likelihood that the person will go off the disability rolls permanently. Effective on enactment.

SFC—Approved House provision.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

House—H.R. 3236 provides for payment from the trust funds for medical evidence submitted by non-Federal institutions and physicians for DI claims. 5/ Effective on enactment.

SFC—Approved House provision, but effective with respect to medical evidence requested on or after July 1, 1980.

PAYMENT FOR CERTAIN TRAVEL EXPENSES

House—H.R. 3236 provides for payments from the trust funds for travel expenses incident to medical examinations required by SSA in conjunction with a disability claim and for travel expenses incurred by OASDI applicants, their representatives, and witnesses in traveling to reconsideration interviews and hearings. 6/ Effective on enactment.

SFC—Approved House provision.

4/ Also applies to SSI program.
5/ Present law provides for payment from general revenues for medical evidence in SSI claims.
6/ Similar payments are authorized from general revenues for travel expenses in SSI claims.

PERIODIC REVIEW OF DISABILITY DETERMINATION

House—H.R. 3236 requires that, unless a finding has been made that a beneficiary's disability is permanent, the case will be reviewed by either the State agency or the Secretary at least once every 3 years. Effective on enactment.

SFC—Approved House provision, but added language that SSA would continue to be authorized to review eligibility of permanently disabled persons and changed effective date to thirteenth month after the month of enactment. 7/

JUDICIAL REVIEW

House—No provision.

SFC—Added provision that the Secretary's findings of fact in title II and XVI cases would be final unless found to be arbitrary and capricious. The substantial evidence requirement would be deleted.

BENEFITS AND SERVICES FOR THE TERMINALLY ILL

House—No provision.

SFC—Added provision to authorize SSA to participate in a demonstration project on how best to provide services needed by the terminally ill. (Up to $2 million a year authorized.)

REPORT BY THE SECRETARY

House—No provision.

SFC—Added provision that the Secretary submit to the Congress no later than January 1, 1985 a report as to the effects of all OASDI and SSI provisions of the bill except those relating to demonstration project authority and the following:

—Relationship between social security and SSI benefits;

—Frequency of deposits of social security contributions from State and local governments; and

—Aliens under SSI.

FREQUENCY OF DEPOSITS OF SOCIAL SECURITY CONTRIBUTIONS FROM STATE AND LOCAL GOVERNMENTS

House—No provision.

SFC—Added provision to require that deposits from State and local governments be due 30 days after the end of each month. Effective July 1980.

7/ SFC report states periodic review procedures should be applied to the SSI program (as well as the DI program).

EMPLOYER PAYMENT OF EMPLOYEE FICA TAX

House—No provision.

SFC—Added provision to count any employer payment of employee FICA taxes as wages for social security crediting and taxing purposes (except in the case of domestic employment). Effective after December 31, 1980.

EXTEND REPORTING DATE OF NATIONAL COMMISSION ON SOCIAL SECURITY

House—No provision.

SFC—Extended the reporting date and cessation of the National Commission on Social Security to April 1, 1981, in order to facilitate the conduct of its studies as mandated by the Social Security Amendments of 1977.

II. SSI PROVISIONS

TREATMENT OF SGA

House—H.R. 3464 sets SGA level at point where countable earnings equal the applicable SSI payment standard; excludes the following (in order) from earnings for SGA purposes: $65; an amount equal to the cost of any impairment-related work expenses (if not paid for by the individual, an amount determined by the Secretary), and one-half the remaining earnings. Effective with respect to work performed on and after July 1, 1980.

SFC—Retains present SGA levels; excludes from earnings for SGA purposes certain impairment-related work expenses whether paid for by the recipient or by someone else. Provides that the Secretary will specify the kinds of care and services to be excluded, and will establish reasonable limits on the amount of earnings to be excluded. Effective with respect to expenses incurred on or after July 1, 1980.

SPECIAL BENEFITS AFTER SGA[1/]

House—H.R. 3464 has no provision.

SFC—Disabled beneficiaries whose earnings equal or exceed the SGA level would be entitled to special benefits until their countable income reached the Federal "breakeven" point. People who were eligible for Medicaid and social services because of their SSI eligibility would continue to be eligible for Medicaid and social services. States would have the option to supplement those entitled under the provision.

A blind or disabled person would continue to be eligible for Medicaid and social services even if his income was at or above the "breakeven" point (and he was no longer getting benefits) if it is determined, under regulations, that the person:

- would be seriously inhibited in continuing his employment through loss of Medicaid and social services eligibility; and
- does not have earnings high enough to allow him to provide for himself a reasonable equivalent of the SSI benefits, Medicaid and social services he would have in the absence of earnings.

Effective July 1, 1980.

1/ Provision would expire after 3 years, and would require SSA to maintain separate accounting of funds expended under the provision.

INCOME DISREGARDS FOR BENEFIT COMPUTATION

House--H.R. 3464 would exclude, in addition to current exclusions (first $65 and one-half the remaining monthly earnings), 20 percent of gross earnings, and the cost of impairment-related work expenses paid by the individual, both of which would be applied before deduction of the one-half exclusion. Effective with respect to expenses incurred on and after July 1, 1980.

SFC—No provision.

REENTITLEMENT TO BENEFITS

House—H.R. 3464 provides that a person would be considered disabled for SSI purposes and automatically reentitled to benefits (assuming nonmedical criteria are met) if he stopped performing SGA within 15 months following the end of the trial work period. Effective July 1, 1980 with respect to individuals whose disability has not been determined to have ceased prior to that date.

SFC—Same as House provision.

PRESUMPTIVE DISABILITY

House—H.R. 3464 would resume benefits presumptively pending a formal disability determination if a former beneficiary's earnings dropped below the SGA level after 1 year, but not more than 4 years, following the termination of SSI disability benefits because of SGA. Effective July 1, 1980 with respect to individuals whose disability has not been determined to have ceased prior to that date.

SFC—No provision.

SSI EXPERIMENTATION AUTHORITY

House—H.R. 3464 provides SSA general experimentation authority with the following qualifications:

- participation must be voluntary;
- total income and resources of a person must not be reduced as a result of an experiment; and
- there must be a project to ascertain the feasibility of treating drug addicts and alcoholics to prevent permanent disability. Effective upon enactment.

SFC—Deleted qualifications in H.R. 3236 and consolidated SSI experimentation authority with OASDI and Medicare authority as described under H.R. 3236 provisions. Effective upon enactment.

PARENTAL DEEMING

House—H.R. 3464 terminates parental deeming at age 18, with qualification that the benefits to recipients 18-20 years old in June 1980 to whom deeming applies will not be reduced as a result. Effective July 1, 1980.

SFC—Same as House provision.

PARTICIPATION IN VOCATIONAL REHABILITATION PROGRAM

House—H.R. 3464 same as H.R. 3236 OASDI provision. Effective July 1, 1980 with respect to individuals whose disability has not been determined to have ceased prior to that date.

SFC—Same as House bill.

INFORMATION TO ACCOMPANY DECISIONS

House—H.R. 3464 same as H.R. 3236 OASDI provision. Effective with respect to decisions made on and after July 1, 1980.

SFC—Same as Senate Finance OASDI provision. Effective with respect to decisions made on or after the first day of the thirteenth month following the month of enactment.

SHELTERED WORKSHOPS

House—H.R. 3464 has no provision.

SFC—Treats pay received in sheltered workshops as earned income. Effective with respect to remuneration received in months after June 1980.

ALIENS UNDER SSI

House—H.R. 3464 has no provision. (H.R. 4904 contains provision deeming income and resources of sponsor to alien for SSI purposes.)

SFC—Provides 3-year residency requirement for entitlement to SSI benefits. (Exceptions provided for refugees and for aliens whose medical condition which caused their blindness or disability arose after they entered the United States.) Effective with respect to aliens applying on or after January 1, 1980.

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

House—H.R. 3464 has no provision.

SFC—Provides that entitlement under both programs would be considered as a totality, so that if payment under title II is delayed and this results in a higher title XVI payment, the adjustment made would be the net difference in the total payment. Also, provides for accounting adjustments for such adjustments between social security trust funds and general revenues and, where necessary, States. Effective with respect to title II benefits for which entitlement is determined after March 31, 1980.

III. CHILD SUPPORT ENFORCEMENT AND AFDC PROVISIONS

ACCESS TO WAGE INFORMATION FOR CHILD SUPPORT PROGRAMS

House—H.R. 3464 has no provision.

SFC—Authorizes State and local IV-D agencies access to SSA and State employment security wage records for IV-D purposes; requires HEW and Labor to develop safeguards against improper disclosure of information. Effective January 1, 1980.

It specifically authorizes SSA to release certain tax return information to State and local IV-D agencies.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

House—H.R. 3464 has no provision.

SFC—Allows Federal matching for State expenditures (including compensation) for court personnel and other supportive and administrative personnel for title IV-D functions, to the extent the expenses exceed State expenses for the same activities from January 1, 1978 to December 31, 1978. Effective January 1, 1980.

CHILD SUPPORT AND AFDC MANAGEMENT INFORMATION SYSTEMS

House—H.R. 3464 has no provision.

SFC—Provides increased Federal matching for IV-D and IV-A costs incurred by States in developing and operating computer information systems; requires HEW assistance and review of State systems. Effective January 1, 1980 for Child Support Enforcement; effective April 1, 1980 for AFDC.

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

House—H.R. 3464 has no provision.

SFC—Prohibits advance payment of the Federal share of State IV-D administrative expenses for a quarter unless State has submitted complete report of child support collected and disbursed in the quarter which ended 6 months earlier; allows reduction in payment to State of IV-A monies by the Federal share, of IV-D collections made but not reported by State. The prohibition against advance payment of IV-D administrative provisions would be effective for the calendar quarter beginning July 1, 1980. The reduction in payment of IV-A monies would be effective for calendar quarters beginning after enactment.

FEDERAL MATCHING FOR AFDC ANTI-FRAUD ACTIVITIES

House—H.R. 3464 has no provision.

SFC—Increases Federal matching rate from 50 percent to 75 percent for certain costs incurred by State or local welfare agencies for anti-fraud activities, including establishment of separate AFDC fraud units. Effective for expenditures made on or after April 1, 1980.

EXTENSION OF IRS AUTHORITY TO COLLECT CHILD SUPPORT TO NON-AFDC FAMILIES

House—H.R. 3464 has no provision

SFC—Extends IRS authority to collect child support to non-AFDC Child Support Enforcement cases, subject to present-law certification and other requirements. Effective January 1, 1980.

SAFEGUARDING INFORMATION

House—H.R. 3464 has no provision.

SFC—Exempts any governmental agency, or component or instrumentality thereof, authorized by law to conduct audits or similar activities in connection with the administration of the AFDC program from the general prohibition against dislosure of personal information about AFDC recipients to legislative bodies. The amendment would make similar changes with regard to audits under title XX, social services. Effective upon enactment.

WORK INCENTIVE PROGRAM

House—H.R. 3464 has no provision.

SFC

- Requires AFDC recipients not exempted by law to register for and participate in employment search activities in the WIN Program as condition of AFDC eligibility; provides to registrants additional social and supportive services necessary to find and retain employment.

- Allows States to match Federal WIN funds with in-kind goods and services.

- Provides for locating employment and supportive services together.

- Eliminates required 60-day counseling period in termination of assistance.

- Authorizes Secretaries of HEW and Labor to establish period during which individuals will continue to be ineligible for AFDC if they refuse without good cause to participate in WIN Program.

- Clarifies treatment of earned income derived from public service employment.

- Effective January 1, 1980.

II. COMPARISON WITH PRESENT LAW [1]

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; ASSISTANCE TO MEET EMERGENCY NEEDS; EARNED INCOME CREDIT

PART A—INCOME AND RESOURCES

Item	Present Law	Committee Bill
(1) Earnings Disregards	1. AFDC (one-parent families) and AFDC-UF (two-parent families) (a) *Eligibility Determination* Any expenses, including child care costs, reasonably attributable to the earning of income. (b) *Benefit Calculation* First $30 of monthly earnings, *plus* ⅓ of remaining earnings, *plus* any expenses, including child care costs, reasonably attributable to the earning of income.	1. AFDC (one-parent families) and AFDC-UP (two-parent families). Effective October 1, 1979. (*Sec. 101*) (a) *Eligibility Determination* 20% of gross monthy earnings; *plus* child care costs up to $160 (adjusted) per month per child. (b) *Benefit Calculation* First $70 of monthly earnings; *plus* 20% of gross monthly earnings; *plus* ⅓ of remaining earnings; *plus* child care costs up to $160 (adjusted) per month per child. 2. AFDC-UP (two-parent families). Effective October 1, 1981. (*Sec. 104*) (a) *Eligibility Determination* 20% of gross monthly earnings. (b) *Benefit Calculation* First $70 of monthly earnings; *plus* 20% of gross monthly earnings.
		3. In States which pay benefits (AFDC plus food stamps) below 75% of the poverty level, in addition to the disregards listed above, the first $70 of monthly earnings would be disregarded at eligibility determination for both one- and two-parent families. Effective October 1, 1981. (*Sec. 104*).
		4. Where a recipient fails without good cause to make a timely report of his earned income, the earnings disregards would *not* be applied to any earned income which is reported late. (Sec. *101*)
(2) Low Benefit Disregard	No "low benefit disregard" required. (However, some States do allow recipients with income to offset the difference between the State's needs standard and payment standard against their income.)	In States where AFDC paid to a family with no other income, plus the food stamp allotment for such family, is less than 65 percent of the poverty level (increased to 75 percent in October 1, 1981), the State must disregard from income an amount equal to the difference between its AFDC grant to a family with no other income and the grant that would be payable to such family if AFDC together with food stamps equaled 65 percent of the poverty level. (75 percent after October 1, 1981.) Effective October 1, 1980. (*Sec. 101*)

[1] Excerpt from Committee on Ways and Means Report on H.R. 4904, the "Social Welfare Reform Amendments of 1979."

PART A—INCOME AND RESOURCES—continued

Item	Present Law	Committee Bill
(3) Definition of Income (a) Coordination with Food Stamp Program.	No required coordination. Federal regulations are being revised to assure that States may use parallel definitions except where prohibited by present law.	Adds a new section 412 to Title IV of the Social Security Act containing an explicit statement of what constitutes income and the items to be excluded from income, largely paralleling the provisions of section 5 of the Food Stamp Act of 1977. Effective 6 months after enactment, but not before October 1, 1979. (*Sec. 101*)
(b) Treatment of Earned Income Tax Credit (EITC) Advance Payments.	EITC payments, both advance payments and income tax refunds due to the credit, are currently disregarded. Assuming passage of the Technical Corrections Act of 1979, beginning in 1980, EITC payments *actually received*, whether as advance payments or as an income tax refund, will be treated as earned income and counted against monthly AFDC payments.	Advance payment of EITC would be assumed and counted against a family's monthly AFDC payment, whether or not such advance payment was requested or received, provided the family is eligible for the advance payment. Payments received as an income tax refund would be disregarded from income. The amount equal to such tax refund would be excluded from resources for a period of 6 months after receipt. Effective January 1, 1980. (*Sec. 101*)
(4) Child Living With Relative Not Legally Responsible for His Support	A State generally may not presume the income of any non-legally responsible relative as available to a child for purposes of AFDC. In addition, a State may not presume the income of a stepparent to be available to a child for purposes of AFDC, unless under State law of general applicability a stepparent is required to support stepchildren to the same extent that the natural or adoptive parents are required to support their children. Only such net income of the stepparent as is actually available for current use on a regular basis is considered when determining AFDC.	Permits a State to prorate the shelter and utilities portion of the AFDC benefit in the case of a child who is not living with a relative legally responsible for his or her support or where none of the legally responsible relatives living with the child is eligible for AFDC, such relative is being supported by another person (such as a natural parent being supported by the child's stepparent) or another program, provided the total income of the household equals or exceeds the State standard of need for a unit that size or the total income of the unit cannot be determined due to failure to cooperate without good cause. If the State does not designate a portion of the grant for shelter and utilities, the Secretary shall prescribe such portion, but in no event to exceed 30 percent of the standard of need. Effective October 1, 1979. (*Sec. 102*)
(5) Treatment of Certain Income (a) Unemployment Compensation Benefits	A person eligible for unemployment compensation (UC) may also be eligible for AFDC–UF. AFDC–UF benefits are reduced by the amount of UC received by the individual.	Provides that UC will be treated as other nonemployment income for AFDC purposes, assuring that UC is treated like other income when computing the low-benefit disregard. Effective 6 months after enactment. (*Sec. 103*)

PART A—INCOME AND RESOURCES—continued

Item	Present Law	Committee Bill
(5) Treatment of Certain Income—Continued		
(b) WIN Training Allowance	Title IV–A of the Social Security Act requires complete disregard of WIN training allowance and work expenses incurred in connection with participation in WIN when determining AFDC benefit.	Instead of work expense disregard in title IV–A, provides for direct reimbursement of work expenses under title IV–C (WIN). Such reimbursements, together with the WIN incentive payments provided under present law, would be disregarded for purposes of *all* Federal or federally assisted programs. Effective six months following enactment. (*Sec. 103*)
(6) Modifications in Treatment of Income Effective October 1, 1981		
Exclusion of Irregularly or Infrequently Earned Income	No provision.	Repeals as of October 1, 1981, exclusion of irregularly or infrequently earned income, provided under section 101 of bill (after retrospective accounting and monthly reporting have been implemented). (*Sec. 104*)
Increase in Low Benefit Disregarded	No provision.	Raises the threshold for the low benefit disregard, provided for under section 101, from 65 percent of poverty to 75 percent of poverty. (*Sec. 104*)
(7) Definition of Resources and Allowable Limits		
(a) Limitation on Assets	AFDC: No statutory limit. By regulation, real and personal property may not exceed $2,000 per recipient. States establish non-excluded asset value limits. In some States, the limit exceeds $2,000 per family. The median is about $1,000 per family. FOOD STAMPS: Limit set at $1,750 unless there is a family member over 60 years in which case the limit is $3,000.	For both applicants and recipients, requires States to set an asset limit between $750 and $1,750, except that States with limits higher than $1,750 as of September, 1981 will not be required to lower their limits. (There is no provision for a higher limit in case of a family member over 60.) All provisions of this section effective October 1, 1981. (*Sec. 105*)

PART A—INCOME AND RESOURCES—continued

Item	Present Law		Committee Bill
(7) Definition of Resources and Allowable Limits—Continued			
(b) Exclusions from Assets	No statutory specification. Most States exclude the value of household goods and personal effects. States vary considerably in extent to which and conditions under which the home, income producing property, life insurance and automobile and other real or personal property may be excluded.	Exclusions from assets include home and lot, household goods, personal effects, and cash value of life insurance, an automobile used for employment, and value of another automobile up to $4,500.	The Secretary is to specify items to be included and excluded, with the objective of paralleling, to the extent practicable, assets definitions and procedures in the current food stamp program. (*Sec. 105*)
(c) Valuation of Resources	Regulation requires that resources be "reasonably evaluated." Retail market value is used for automobiles.	In valuing resources, equity is used, except for automobiles where market value is used.	Same as food stamp law. (*Sec. 105*)
(d) Liens against property	No prohibition.	No provision.	Prohibits liens against property of AFDC recipients. (*Sec. 105*)
(e) Disposal of Resources Prior to Application for AFDC	No provision.	No provision.	Beginning October 1, 1981, eligibility for AFDC will be delayed in the case of an individual who disposed of resources that would have disqualified him or her for AFDC if the compensation for the resource was at least $3,000 less than the fair market value of the resource. The delay will be for 6 months if the uncompensated value is $3,000 to $6,000, 12 months if uncompensated value is $6,000 to $15,000 and 24 months if uncompensated value is more than $15,000. The delay will begin the month after the month the resources are transferred. The delay in benefits would not apply where the applicant demonstrates that the assets were disposed of for a purpose other then qualifying. (*Sec. 105*)

PART B—ELIGIBILITY AND BENEFIT STRUCTURES

Item	Present Law	Committee Bill
(8) AFDC-Unemployed Parent Program	26 States and D.C. currently have the optional AFDC-Unemployed Fathers program. (Recent U.S. Supreme Court decision has extended this program to unemployed mothers.)	Changes the "Unemployed Fathers" (AFDC–UF) program for two-parent families to "Unemployed Parents" (AFDC–UP), effective upon enactment, and mandates it in all States, effective October 1, 1981. (*Sec. 106*)
		A family would be eligible for AFDC–UP if the *principal earner* was unemployed. The principal earner is whichever parent, living at home, earned more in the 6 months preceding application. Effective upon enactment, but not before October 1, 1979.
(a) Definition of "Unemployment"	The Secretary of HEW is required to define "unemployment." By regulation, a father is generally considered to be employed, and therefore ineligible for AFDC–UF benefits, if he was employed 100 hours or more in the month.	Requires the Secretary of HEW to specify by regulations the minimum level of monthly earnings for full-time employment—thereby defining "unemployment." For the 9-month period beginning October 1, 1979, the Secretary would be required to set such level at $500 a month, and would be permitted to adjust the level thereafter for changes in the Consumer Price Index and the Federal minimum wage. Effective upon enactment but not before October 1, 1979. (*Sec. 106*)
(b) "Prior Work" Rule	The unemployed father must have been employed for 6 to 13 quarters in the period ending 1 year before application for benefits, or received unemployment compensation within the year prior to application.	Repeals "prior work" requirement. Effective October 1, 1981. (*Sec. 106*)
(c) "30 Day Waiting Period"	The father must be unemployed for 30 days before the family is eligible for benefits.	Repeals "waiting period" requirement. (*Sec. 106*)
(9) Definition of Dependent Child		
(a) Definition of "Child"	Under 18, or, at State option, under 21 if a student regularly attending school.	Under 18, or, at State option, under 21 if a student (1) regularly attending elementary or secondary school or (2) attending school or college "on a full-time basis." States may exclude children over 17 who are attending school beyond the secondary level. Effective October 1, 1981. (*Sec. 107*)
(b) Pregnant Women	States, under current regulations, have the option of providing AFDC to a pregnant woman.	Requires States to provide AFDC payments to a pregnant woman who, following the child's birth, would be eligible for AFDC (States would still have the option of covering the unborn child.) Effective October 1, 1981. (*Sec. 107*)

PART B—ELIGIBILITY AND BENEFIT STRUCTURES—continued

Item	Present Law	Committee Bill
(10) Benefit Standards (a) National AFDC Minimum Benefit	No national AFDC benefit standard. Maximum yearly benefits as of July, 1978, varied from a low of $1,212 in Mississippi (family of four) to a high of $6,756 in Suffolk County, New York. AFDC plus Food Stamps varied from a low in Mississippi of $3,396 (family of four) to a high of $7,417 in Suffolk County, New York.	Requires a national minimum benefit (AFDC plus Food Stamps) equal to 60 percent of poverty as of January 1, 1981, increasing to 65 percent of poverty October 1, 1981 (65 percent of poverty equals approximately $4,654 in 1979 dollars). (*Sec. 108*) Requires the Secretary to report to Congress by October 1, 1981 on the desirability and feasibility of raising the minimum benefit level.
(b) Geographical Variations in Benefit Standards within States	By regulation, a State must have a single standard in effect throughout the State. However, a State may vary its payment geographically based upon shelter and utility costs.	Permits States to have varying payment levels in up to six geographic areas of the State, but not below the national minimum benefit level.
(c) Maintenance of Effort	No provision.	*Permits* States to vary the payment standards for families that received AFDC for September, 1981, if those pre-existing standards are higher than the required monthly cash needs standard that would otherwise be applicable to the family.
(11) Income Poverty Guidelines; Adjustments for Changes in CPI	No provision. Food stamp benefits adjusted to reflect increases in the food component of CPI.	Adds Section 414 to Title IV-A of the Social Security Act containing guidelines and procedures pertaining to the determination of and CPI adjustments in the "poverty level" and "food stamp" benefits. Effective upon enactment. (*Sec. 109*)
(12) Rights and Responsibilities of Applicants and Recipients (a) Application	Federal law requires States to provide that all individuals wishing to make application have an opportunity to do so and that aid be furnished with reasonable promptness to all eligible individuals. States must also provide a fair hearing to any individual whose claim for aid is denied or not acted on with reasonable promptness. Specific requirements for filing and determination, as well as hearing procedures, are provided in Federal regulation. States must provide safeguards restricting the use or disclosure of information concerning the applicants or recipients.	Anyone who makes in person or in writing what may be reasonably interpreted as a request for payment would be deemed to have filed an application on the day the request was received. The application form must be approved by the Secretary, require only information which is necessary to administration of the program, be available in an appropriate language other than English where 10 percent of the residents of the State agency service area speak another language, specify or furnish as attachments a clear description of the rights of applicants, and the penalties for fraud. Applicants may receive and return application forms by mail.

PART B—ELIGIBILITY AND BENEFIT STRUCTURES—continued

Item	Present Law	Committee Bill
(12) Rights and Responsibilities of Applicants and Recipients—Continued		
(b) Prompt Determination and Notice of Determination	Regulations require that a decision be made within 45 days of the application, and that notice of denial, or payment if granted, be mailed no later than that day.	No more than 30 days may elapse from date of application to date of notice (and first payment if the family is found to be eligible). The notice must state the action taken on the application and the reason therefor, and explain the unit's right to and manner for requesting a hearing.
(c) Presumptive Eligibility	No provision.	After 30 days from application, payment would be made within 5 days even in the absence of essential information so long as the absence is not directly attributable to the action or inaction of the applicant and there is no documented reason to believe the applicant is ineligible or should not receive the highest amount to which he would otherwise be entitled. Such aid could continue for 3 months for AFDC (one-parent families) and 2 months for AFDC–UP (two-parent families). At this time a final (appealable) decision must be made.
(d) Notice of Adverse Determination and Right to Fair Hearing	Regulations require that, in the case of an adverse determination, the State must give timely and adequate notice. Notice must be mailed at least 10 days before the effective date of the action and benefits must be continued if recipient asks for a hearing within the 10 day period.	Requires that, in the case of a determination to terminate, suspend, adjust (for overpayment), withhold, or reduce payment, the applicant must be notified, at least 10 days before action becomes effective, of the facts and legal basis on which such action is taken and his or her right to a hearing, except in the case where the action is taken on the basis of a monthly report filed by the family (or failure to file this report). In this case, the notice must arrive no later than the regular day of payment. Where hearing is requested within 10 days, payment would be continued until the hearing determination is made.
(e) Rights to Representation	Regulations allow an applicant to be assisted by an individual of his choice, who may be an attorney, in the application process and/or determination of eligibility.	Requires that hearings (1) be conducted at a reasonable time and place upon written notice, (2) provide opportunity for representation; the right to present evidence, compel attendance of agency employees, and cross-examine witnesses; the right to revised determination and appeal, and (3) result in a final determination within 90 days of request of hearing.

PART B—ELIGIBILITY AND BENEFIT STRUCTURES—continued

Item	Present Law		Committee Bill
(12) Rights and Responsibilities of Applicants and Recipients—Continued			
(f) Lost or Stolen checks.	No provision.		Requires that, when requested, lost or stolen checks be replaced as swiftly as possible, at least 3 days and not more than 30 days after regular due date of check, but in no event no more than 5 days from the date of request for replacement. Effective October 1, 1981. (*Sec. 110*)
(13) Period for Determination of Aid; Times at Which Payment Must be Made	AFDC	FOOD STAMPS	
(a) Retrospective Accounting	Regulations allow States to use either prospective or retrospective accounting period. The accounting period is generally one month. In most States, a prospective determination is made based on income available in the month of determination.	Accounting period is one month—*prospective*. Eligibility is based on current income at time of application and prospective income anticipated during household's period of certification, using the previous 30 days as a guide, except that income of households derived in periods of less than a year, because of contracts (other than hourly or piecework) or self-employment, is averaged over a 12 month period.	Requires States to use a one month *retrospective* accounting period. Except at initial application, a family's eligibility and benefit amount would be determined and paid on the basis of the preceding month's circumstances. With respect to initial application, the Secretary is to prescribe a method of determining eligibility and benefits that takes into account prior and current months' circumstances and provides for an uninterrupted transition to the retrospective accounting system within the first two months payments are received. Effective October 1, 1981. (*Sec. 111*)
(b) Reporting	Redetermination and reporting requirements vary by State. Regulation requires that eligibility conditions subject to change be redetermined at 6 month intervals. Recipients are re-	The period of certification for households receiving public assistance generally coincides with the certification for public assistance payments, and may be up to 12 months for	Requires States to make a complete redetermination of eligibility at least once a year, and permits Secretary to issue regulations requiring more frequent contact. It is anticipated that the Secretary will require most families to file monthly written reports. If a family fails to report, it will be notified, given another chance to file, and then aid will be terminated until the report is filed. Effective October 1, 1981.

PART B—ELIGIBILITY AND BENEFIT STRUCTURES—continued

Item	Present Law	Committee Bill
(18) Period for Determination of Aid; Times at Which Payment Must be Made—Continued	quired to report changes in circumstances that affect benefits. households consisting of unemployable or elderly persons. For other households, the period may not be less than 3 months unless frequent changes in circumstances are likely.	If there is failure without good cause to make a timely report of earnings, the family's benefits will be calculated without applying the earnings disregards to the earnings reported late. Effective October 1, 1979. (*Sec. 111*)
(14) Employment Requirement (a) Requirements for Participants	All AFDC applicants are required to register for (and participate in) WIN, and to accept offered employment, except: A child under 16 or attending school full-time; A person who is ill, incapacitated or of advanced age; A person whose presence in the home is required because of the illness or incapacity of another household member; A mother or other relative caring for a child under age 6; A mother or other female caretaker of a child unless the father or other adult male relative who is in the home and required to register refuses to do so, or refuses WIN participation or employment; A person so remote from a WIN project that his effective participation is precluded. An individual required to register with WIN is not counted in determining the household's grant level if the individual fails to register or refuses to participate in the WIN program or refuses employment.	Retains requirement for participation in employment related activities. Modifies present law to reflect new provisions requiring registration and employment of the "principal earner." (*Sec. 112*)
(b) Specification of "good cause"	An individual may refuse employment for good cause. By regulation, an individual is not required to accept employment where the wage, minus work expenses, provides an income less than the family's AFDC benefit.	Specifies that good cause for refusing employment or training exists if an individual would have less income after accepting the job or training opportunity than he did before, including cash and in-kind benefits as determined by the Secretary of Labor. Effective October 1, 1981. (*Sec. 112*)
(c) Protective Payments	A State must make "protective payments" for a child whose relative refuses to comply with work requirement.	Makes optional to States the making of "protective payments" in the case of child whose relative refuses to comply with work requirement. Effective October 1, 1979. (*Sec. 112*)

PART B—ELIGIBILITY AND BENEFIT STRUCTURES—continued

Item	Present Law	Committee Bill
(14) Employment Requirement—Continued (d) 60 Day Counseling Period under WIN; Sanctions	AFDC payments are to be terminated for so long as an individual (who has been certified by the welfare agency as ready for employment or training) refuses without good cause to participate in WIN. There is a 60-day counseling period during which assistance may not be terminated, despite an individual's refusal to participate in WIN, so long as the individual accepts counseling and other services aimed at persuading the individual to participate in a WIN program.	Repeals "60-day counseling period" in current law. Instead, there is a 30-day delay period after which the prescribed sanction must be imposed for at least 45 days (or until the individual withdraws his or her refusal), whichever is later. Effective October 1, 1979. (*Sec. 112*)
(e) Special Provisions Pertaining to Two-Parent (AFDC–UP) Families	The entire family receiving AFDC–UF is ineligible for benefits if an unemployed father refuses to register for work.	The family of an unemployed parent (AFDC–UP) would not lose benefit status if the principal earner refused to register or refused employment, if the other parent complied with the registration and work requirement. However, the family's benefit would be reduced by the amount provided for the principal earner. (*Sec. 106*)
		After the first 2 months a two-parent (AFDC–UP) family will be eligible to receive benefits for any month only if the Secretary of Labor certifies neither parent is "employed" or that employment for that month was not offered to the principal earner or if the Secretary does not submit such certification. Effective October 1, 1981. (*Sec. 111*)
(15) Assistance to Meet Emergency Needs	The Federal Government provides 50 percent matching funds for emergency assistance provided to families with children, limited to 30 days per family in a 12 month period. The assistance must be needed in order to avoid destitution or to provide living arrangements, and the family must be without available resources for reasons other than refusal of the child, parent, or relative to accept employment or training. Emergency assistance may take the form of a money payment, in-kind aid or vouchers. Currently, 23 States and territories participate in the emergency assistance program. In FY 1978, approximately 400,000 families received assistance under the program. The average assistance per family was $190 a month.	Establishes a $200 million Federal block grant program to assist States in meeting emergency needs of families with children. Authorizes States to set income and asset levels for establishing family eligibility which may not exceed Federal maximums. Under the Federal maximums, a family whose net income is not more than twice the poverty level and whose assets do not exceed $1,750, could be eligible for cash assistance, vendor payments or other assistance to meet emergency needs arising from accident, disaster or other uncontrollable, unpredictable or non-routine event. The $200 million would be available to States on an entitlement basis and would be adjusted annually for changes in the Consumer Price Index. Half the available funds would be distributed among the States on the basis of AFDC caseload and the other half on the basis of State spending for AFDC. Effective October 1, 1981. (*Sec. 113*)

PART C—FEDERAL FINANCIAL PARTICIPATION; ADMINISTRATIVE IMPROVEMENTS; RELATED AMENDMENTS

Item	Present Law	Committee Bill
(16) Federal Financial Participation		
(a) Matching Formula	A State may elect the higher of the AFDC matching formula or the matching formula used for the medicaid program. All but four (4) States use the medicaid formula, under which the State share is determined as follows: $.45 \times \frac{[\text{State's per capita income}]^2}{[\text{U.S. per capita income}]^2}$ The maximum Federal share of State AFDC payments is 83 percent and the minimum is 50 percent.	Beginning January 1, 1981, the State's share of AFDC and AFDC–UF costs would be reduced by 10 percent. Beginning October 1, 1981, the State's share of AFDC–UP would be reduced by an additional 20 percent. (Thus, for example, beginning October 1, 1981, the share paid by the State of New York for AFDC would be reduced from 50 percent to 45 percent, and from 50 to 35 percent for AFDC–UP. West Virginia's share of AFDC would be reduced from 30 percent to 27 percent, and for AFDC–UP from 30 percent to 21 percent.) (*Sec. 115*)
		Requires the Secretary to conduct a study of alternative AFDC matching formulas, including the present formulas, a tax capacity formula, and other alternative formulas, and to report his findings and conclusion to the Congress by October 1, 1981. (*Sec. 108*)
(b) Fiscal Relief Pass-Through to Local Governments	States may require political subdivisions to share non-federal AFDC costs. Currently, political subdivisions share AFDC costs in 13 States.	Where a State shares the cost of AFDC with its political subdivisions, the State must pass through to the local government the portion of the fiscal relief which is proportional to the localities' share of AFDC expenditures. (*Sec. 116*)
(17) Limitation on Fiscal Liability of States: "Hold Harmless"	No provision.	Beginning January 1, 1981 and continuing through fiscal year 1986, a State would be held harmless for the amount by which AFDC expenditures (at 1979 benefit level or mandated national minimum benefit level, whichever is higher adjusted by the CPI to the year being calculated), plus increases in medicaid and administrative costs due to AFDC caseload growth, exceed 95 percent of the 1979 level of State expenditures for AFDC (adjusted to the year being calculated by the percentage increases in national AFDC expenditures). AFDC. For three subsequent years (FY 1987–1989), the hold harmless payment would decline by one-third each year until phased-out in 1990. (*Sec. 116*)

Item	Present Law	Committee Bill
(18) Administrative Improvements	Requires that the State AFDC plan provide such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.	Specifies that the Secretary would have authority, in relation to improving administration of AFDC, to establish policies pertaining to prospective budgets for administrative costs, allowable costs and cost allocation rules, fiscal controls, and quality control procedures. Effective October 1, 1979. (*Sec. 117*)
(19) Programs for Mechanized Processing and Management Information Systems	States receive 50 percent Federal matching for costs of administering AFDC program. There is no special funding for computer systems.	Provides 90 percent Federal matching to States for costs of developing and implementing computerized AFDC management information systems (including such costs associated with implementing monthly retrospective accounting) and 75 percent for their ongoing operation. The State's system must meet specified criteria to qualify for the increased Federal funding. Effective October 1, 1980. (*Sec. 118*)
(20) Assistance for the Development of Administrative Improvement in AFDC Programs	States receive 50 percent Federal matching for costs of administering AFDC.	Authorizes Secretary of HEW to provide 75 percent Federal matching, up to a national maximum of $50 million, for costs of improved or innovative administrative techniques that meet specified administrative objectives, including monthly retrospective accounting. Effective October 1, 1980. (*Sec. 119*)
(21) Corrective Action Regarding Overpayments and Underpayments	No statutory requirement. By regulation, the Secretary permits States to specify uniform statewide policies with respect to recoupment of overpayments and underpayments. States are required to correct underpayments if the State recoups overpayments.	Requires States to provide for the recovery of overpayments, and for making of payments to correct erroneous denials or underpayments. Effective October 1, 1980. (*Sec. 120*)
(22) AFDC Recipient Review	No provision.	Requires States to review and compare AFDC caseloads to determine whether a recipient is receiving public assistance benefits in more than one State. Effective October 1, 1980. (*Sec. 121*)
(23) Monitoring and Assessment of Performance in the AFDC Program	No provision.	Directs the Secretary of HEW to develop procedures for monitoring and assessing performance, at least annually, of State plan requirements in Federal law. Effective upon enactment. (*Sec. 122*)

PART C—FEDERAL FINANCIAL PARTICIPATION; ADMINISTRATIVE IMPROVEMENTS; RELATED AMENDMENTS—continued

Item	Present Law	Committee Bill
(24) Technical Amendments to Incentive Adjustments for AFDC Quality Control	Current law provides for incentive payments to States with low error rates based on the dollar amounts in error. Whereas dollar amounts of overpayments, underpayments, and payments to ineligibles can be determined, it is difficult to calculate the dollar amounts involved in failure to pay eligible applicants.	Effective January 1, 1978, defines different types of erroneous expenditures (overpayments, payments to ineligibles, underpayments, and failure to pay eligible applicants) and specifies the manner in which each type, including failure to pay eligible applicants, should be taken into account in calculating incentive payments. (*Sec. 123*)
(25) Amendments to Medicaid Program	Recipients of AFDC are eligible for medicaid. (Certain families or children may also be eligible for medicaid if eligible for AFDC on income basis but not receiving payments for specified reasons.) At State option, categorically related medically needy families are eligible for medicaid when the family would be eligible for AFDC except for income, if income (after paying medical expenses) is below State defined level for medicaid (may not exceed 133 percent of AFDC benefit for comparable family).	Amends Title XIX to provide that a State which did not have an AFDC–UF program on July 23, 1979 would not be required to provide medicaid coverage to families newly eligible as a result of the mandated AFDC–UP program. Effective October 1, 1981. (*Sec. 124*)
(26) Prohibition on Payments Below $10	No provision.	No check would be issued for a benefit amount lower than $10 a month. However, a family eligible for any amount of AFDC would continue to maintain Medicaid coverage. Effective October 1, 1981. (*Sec. 124A*)
(27) Approval of Certain Demonstration Projects	Under section 1115(a) of the Social Security Act, the Secretary of HEW has the authority to approve demonstration projects, waiving Federal requirements under the Act and providing funds to cover the cost of such projects.	In the case of any application made by a State to conduct or participate in a demonstration project under section 1115(a), the Secretary of HEW would be required to make a final decision approving or denying the application no later than 4 months after the date on which the application is submitted. (Sec. 124B)

PART D—IMPLEMENTATION

(28) State Implementation of Amendments	Not Applicable.	Authorizes Secretary to allow a State (at its request) to implement over a six (6) month period certain amendments contained in this bill (or over a 12-month period in the case of retrospective accounting). (*Sec. 125*) For the purpose of assisting States in implementing the administrative eligibility and benefit changes required by the bill, $150 million would be allocated among the States in fiscal year 1981 on the basis of AFDC caseloads. Where local governments administer and share costs of AFDC, the State would be required to pass through to those local governments an amount equal to the local jurisdictions' 1981 AFDC expenditures.

PART D—IMPLEMENTATION—continued

Item	Present Law	Committee Bill
(29) Implementation of Amendments under Federal Regulations	Pursuant to Administrative Procedures Act, proposed regulations must be published for a specified period in the Federal Register for the purpose of soliciting public comments.	Provides that no proposed regulation under Title I of the bill shall take effect unless the Secretary of HEW has transmitted such proposed regulation to the House Ways and Means Committee and the Senate Finance Committee for a period of 60 days, concurrent with publication in the Federal Register. The regulations would not be prevented from taking effect unless both Houses of Congress by Concurrent Resolution disapproved.
(30) Applicability of Amendments to the Territories	Not Applicable.	Specifies that Sections 104, 107(b), 108, 109, 113, 115, 116, 119, 124, and 402(a)(8)(E) of the Social Security Act as amended by section 101(a)(2) of this Act will *not* apply to Puerto Rico, Guam, Virgin Islands or Northern Marianas. (*Sec. 126*)

PART E—AMENDMENTS TO THE INTERNAL REVENUE CODE AFFECTING THE EARNED INCOME CREDIT

(31) Government Payments to be Disregarded for Purposes of Support and Maintenance of Household Tests.	Various provisions of the Code require a determination of whether a taxpayer provides more than half the support of an individual (dependency exemption, income averaging) or whether a taxpayer furnishes more than half the expenses of maintaining a household (for head of household or surviving spouse filing status, and dependent care credit).	Present Law.
	Under various revenue rulings, benefits provided under governmental assistance programs and used for support or household maintenance are considered not to be furnished by the taxpayer.	Benefits provided under Federal, State or local governmental assistance programs and used for support or household maintenance would not be taken into account in determining the extent to which the support of an individual has been provided by that individual, by a taxpayer who has the same principal place of abode as that individual, or by the parents of that individual, or in determining whether a taxpayer is considered as maintaining a household. Effective for taxable years beginning after December 31, 1979.

PART E—AMENDMENTS TO THE INTERNAL REVENUE CODE AFFECTING THE EARNED INCOME CREDIT—continued

Item	Present Law	Committee Bill
	Eligibility for the earned income credit depends on whether more than half the support of a child is provided by the taxpayer (in the case of a married couple) or whether more than half of household expenses have been provided by the taxpayer (in the case of an unmarried individual). Thus, if more than half of support or household expense has been provided by AFDC or other assistance programs, the family is not eligible for the earned income credit.	Determinations of support or maintenance of household, and thus, eligibility for the earned income credit, will depend on sources of funds other than governmental assistance programs. (*Sec. 127*)
(32) Amendments to the Earned Income Tax Credit		
(a) Eligibility	(1) Married taxpayers who are entitled to a dependency exemption for a child, (2) surviving spouses, and (3) unmarried heads of household who maintain a household for a child; child residing with taxpayer in the United States; married taxpayers must file joint return.	Present Law.
(b) Amount of Credit	10 percent of up to $5,000 of earned income; maximum credit $500; phased out at 12½ percent rate between $6,000 and $10,000 of adjusted gross income (or, if greater, earned income).	11 percent of up to $5,000 of earned income; maximum credit $550; phased out at 13.75 percent rate between $7,000 and $11,000 of adjusted gross income (or, if greater, earned income). Effective for taxable years beginning after December 31, 1981. (*Sec. 128*)
(c) Advance Payment of Credit.	Employees who believe that they are eligible for the credit may claim advance payment of the credit from employers; amount of payment depends on wages paid and whether spouse is receiving advance payments. Amount is added to each paycheck. Excess of actual credit over amount of advance payment refunded after filing tax return; conversely excess of advance payment over actual amount of credit must be repaid with tax return.	Present Law.
(d) Disregard of Earned Income Credits	Until January, 1980, the credit may not be taken into account as income for purposes of determining eligibility for, or the amount of, benefits or assistance under any Federal program or state or local program incurred in whole or in part with Federal funds.	AFDC—effective January 1, 1980, earned income would include, to the extent and under the circumstances prescribed by the Secretary, an amount equal to advance payments payable to an individual or an amount which would be payable if the individual claimed advance payments. Tax refunds due to the credit would not be treated as resources for a period of six months after receipt. SSI—same as present law; Food Stamps—same as present law.

PART F—EXPERIMENTAL PROJECTS INVOLVING FOOD STAMP BENEFITS FOR AFDC RECIPIENTS

Item	Present Law	Committee Bill
	Effective January 1, 1980, assuming passage of the Technical Corrections Act of 1979, advance payments and income tax refunds due to the credit will be treated as earned income in the AFDC and SSI programs. The Food Stamp program will count advance payments as earned income and will disregard tax refunds due to the credit.	
(33) Pilot projects of payments in lieu of food stamp benefits for AFDC recipients	The Food Stamp Act of 1977 provides for certain pilot and experimental projects. The Secretary may waive the requirements of the Act to the degree necessary for such projects to be conducted, except that no project shall be implemented which would lower benefit levels or further restrict eligibility requirements. Such pilot projects are limited to households all of whose members are 65 years of age or older or entitled to SSI benefits.	Amends the Food Stamp Act of 1977 to give the Secretary of Agriculture authority to allow pilot or experimental projects designed to test the feasibility of cashing out food stamp benefits to eligible households containing persons eligible for AFDC benefits. For purposes of cash-out projects, removes the present limitation which requires that no project shall be implemented that would lower benefit levels or impose more restrictive eligibility tests.

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PART G—NATIONAL GOAL FOR ERROR RATE REDUCTION

(34) National Goal for Error Rate Reduction	No Provision.	Directs the Secretary to regard a 4 percent payment error rate as the goal to be achieved by regular annual reductions in state AFDC error rates. Requires the Secretary of HEW to conduct a study of State AFDC error rates and to submit to the Congress, no later than December 31, 1980, a report of the findings of the study along with recommendations for changes in regulations promulgated on March 7, 1979. The regulations promulgated on March 7, 1979 will remain in effect until the study is completed and 30 days have elapsed from the time proposed changes in those regulations have been submitted to Congress. (*Secs. 130, 131, 132*)

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PART A—FOOD STAMP CASH-OUT

Item	Present Law	Committee Bill
(35) Food Stamp Cash-Out for Certain SSI Recipients	SSI recipients currently receive cash instead of food stamps in California, Massachusetts and Wisconsin. In all other States, SSI recipients who meet the Food Stamp income and resource test are eligible for food stamps.	Effective October 1, 1981, provides for a cash payment in lieu of food stamps in all States for SSI recipients who live alone, who live with an SSI eligible spouse or who live with others all of whom are SSI beneficiaries; this payment will be included in or with the person's SSI check. In each State there will be one "cash in lieu of food stamp payment" amount for all SSI recipients living alone and another amount for all SSI couples. The amounts of the two payments in each State will be determined by the Secretary of HEW, and adjusted annually, on the basis of the current value of food stamp coupons and the current level of SSI payments, including State supplemental payments, in each State. In determining the amounts of the cash payment in lieu of food stamps for each State, the "standard deduction" and one-half of the "maximum excess shelter expenses deduction" specified in the Food Stamp Act will be applied to SSI benefits payable in a State.
		For any month, the amount of the cash payment for an individual or couple who received both SSI and food stamps in September, 1981, must be equal to or greater than the value of the food stamps which the person or couple received for September, 1981. (*Sec. 201*)

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SUPPLEMENTAL SECURITY INCOME

(36) Eligibility of Couples Living Apart	Under SSI, an eligible spouse is defined as an aged, blind or disabled individual who is the spouse of another aged, blind or disabled individual and who has not been living apart from such other individual for more than six months. However, when members of a couple are living apart because one member is in a medical institution, the members of the couple are considered as individuals for purposes of treating the income of the individuals in the couple.	An individual would cease to be treated as an "eligible spouse" after the couple had been living apart for more than one calendar month, rather than six months, for any reason. During the one month period when they are still treated as a couple, the couple would be paid on the basis of the living arrangement of such individual and spouse in the preceding month. Effective September 1, 1980. (*Sec. 202*)
(37) Eligibility of Individuals in Certain Medical Institutions (including cost of living adjustments)	A recipient's monthly SSI benefit standard is reduced to $25 for any month during all of which he is in a medical institution.	The SSI benefit standard would not be reduced to the $25 payment standard until the fourth consecutive month during all of which the individual was in a Medicaid institution. Also provides for an annual cost of living adjustment in the $25 payment standard. Effective September 1, 1980. (*Sec. 203*)

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SUPPLEMENTAL SECURITY INCOME—continued

Item	Present Law	Committee Bill
(38) Earned Income in Sheltered Workshops	Remuneration received by SSI recipients as part of a sheltered workshop program and which is determined by the Social Security Administration to be part of a rehabilitation program is counted as "unearned income." Such income in excess of $20 a month will reduce that individual's SSI benefits on a dollar for dollar basis.	Would treat income received in a sheltered workshop or work activities center as "earned" income, thereby making it subject to the $65 plus one-half the remaining earnings disregard in the determination of eligibility for and the amount of SSI benefits. Effective September 1, 1980. (*Sec. 204*)
(39) Exclusion from Resources of Burial Plots	There is a limit on the amount of resources an individual can retain and still receive SSI payments. Generally, countable resources cannot exceed $1,500 for an individual or $2,250 for a couple. Excluded resources include: a home; reasonable value of household goods, personal effects and automobile; other property necessary to the individual's means of self-support; certain shares of stocks held by natives of Alaska; life insurance policies on any individual with a total face value of $1,500 or less.	Subject to limits prescribed by the Secretary, excludes the value of a burial plot from being counted as a resource. Effective September 1, 1980. (*Sec. 205*)
(40) Exclusion from Resources of Funds Set Aside for Burial Expense	No specific exclusion for resources set aside for burial expenses.	Excludes from countable resources amounts set aside to meet the burial expenses of an eligible individual or his spouse who is living with him. Each may exclude up to $1,500 in a separate identifiable fund for burial expenses, but that amount must be reduced by the face value of any life insurance policies that have been excluded from resources, or irrevocable burial trusts, either of which would serve the same purpose. If the amount set aside for burial expenses is used for another purpose, or any excluded cash surrender value is obtained by the individual, future SSI benefits will be reduced by a like amount. Effective October 1, 1979. (*Sec. 206*)
(41) Exclusion of Certain Real and Personal Property from Income	Under the SSI program, inheritances, gifts, etc. are considered income in the quarter received and, to the extent that they are not expended in that quarter, become resources in the next quarter. Receipt may result in ineligibility even though a reasonable cash value may not be readily available.	Adds to the list of exclusions from income: unearned income in the form of real or personal property (1) which would otherwise be excluded from resources (e.g., a house which the individual inherits and thereupon moves into), or (2) which is not readily convertible to cash and is not in the form of food or clothing. The property would continue to be subject to the resource limitation. Effective October 1, 1979. (*Sec. 207*)

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SUPPLEMENTAL SECURITY INCOME—continued

Item	Present Law	Committee Bill
(42) Underpayments to Ineligible Spouse of Deceased SSI Recipients	SSI payments due to an individual at the time of his or her death, may only be made to a surviving spouse also eligible for SSI.	Allows for the correction of underpayments with respect to a deceased SSI recipient by making such payments to his surviving spouse who was living with him at the time of death, regardless of whether the spouse is eligible for SSI. Effective September 1, 1980 and applicable only with respect to individuals whose death occurs on or after the date of enactment. (*Sec. 208*)
(43) Increased Payment for Presumptively Eligible Individuals.	Presumptively eligible aged, blind or disabled individuals or couples facing a financial emergency may receive a cash advance of $100 in the case of an individual and up to $200 for a couple. Disabled or blind individuals are eligible for the full benefit for three months prior to determination of eligibility only if they are also found to be presumptively disabled or blind.	Modifies current law in two ways: first, it would allow emergency advance payments of up to the full amount of monthly benefits, and second, the amendment would permit such a payment to be made for three successive months. Effective September 1, 1980. (*Sec. 209*)
(44) In-kind Remuneration	Under SSI law, earned income is defined by reference to the definition of wages under the title II OASDI program, which specifically excludes in-kind remuneration for agricultural or domestic service or service not in the course of the employer's trade or business. Such remuneration is then counted as unearned income with only a $20 a month disregard compared to $65 plus one-half of the remaining earnings disregarded for earned income.	In-kind remuneration for agricultural or domestic service or service not in the course of the employer's trade or business would be counted as earned income under the SSI program. Effective beginning with the second quarter beginning after the date of enactment. (*Sec. 210*)
(45) Continuation of Benefits for Certain Individuals Hospitalised Outside the U.S.	An individual is ineligible for SSI benefits for any month throughout all of which he or she is outside the United States.	Modifies SSI law to provide for the continuation of SSI benefits for certain individuals hospitalized outside the United States. This would be consistent with a provision in the medicare program under which persons may receive inpatient hospital services provided outside the United States under certain conditions. Effective October 1, 1979. (*Sec. 211*)

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SUPPLEMENTAL SECURITY INCOME—continued

Item	Present Law	Committee Bill
(46) "Modification in Certain Grandfathering Protections"	SSI recipients who were converted from the pre-SSI state administered programs for the aged, blind and disabled continue to be eligible for SSI even though their assets may exceed the SSI assets limitations. Their grandfather protection for Federal benefits ceases when their eligibility for *Federal* SSI benefits ceases for six consecutive months. In the case of the blind, the income disregard rules for the state administered pre-SSI program of aid to the blind are applied in the same manner.	The grandfathering protection would continue until the individual had been ineligible for either the Federal SSI benefit or a state supplementary payment for six consecutive months. (*Sec. 212*)
(47) "Attribution of Parents' Income and Resources to a Disabled or Blind Individual age 18–21"	Present law requires that the parents' income and resources be deemed to a blind or disabled child in determining the child's eligibility for SSI and amount of SSI benefits. The term "child" is defined to include individuals under 18 years of age, or under 22 in the case of an individual who is in school or in a training program.	For purposes of the deeming requirement, the term "child" would apply only to individuals under age 18, whether or not the individual is in school or training. This would make uniform the SSI eligibility requirement for blind and disabled individuals age 18 through 21. Effective beginning with the second quarter after enactment. (*Sec. 213*)
(48) Termination of Mandatory Minimum State Supplementation in Certain Cases	All persons who received assistance under the former aid to the aged, blind and disabled programs in December 1973 are guaranteed that they will receive no less income under SSI.	Eliminates the mandatory minimum State supplementation for those individuals who, after September 1979 (1) are no longer residents of the State to which the rules apply, (2) have income greater than the income guarantee for September 1979 which has been determined for such an individual, (3) are in certain public institutions and ineligible for SSI, or (4) are ineligible because of excess resources. Effective October 1, 1979. (*Sec. 214*)

Item	Present Law	Committee Bill
(49) Limitation on Eligibility for SSI of Persons who Dispose of Assets.	The valid disposal or transfer, as by sale or gift, of a resource prior to the filing of a SSI application, does not preclude eligibility for payment, even though retention of the resource would have placed an individual's or couple's resources over the applicable limit. This is true with respect to cash and real or personal property although the resource may have been sold for less than its market value.	Eligibility for SSI would be delayed when applicants for or recipients of SSI dispose of resources for less than current market value if retaining such resources would have made them ineligible for benefits. This would apply if the compensation for the resources was at least $3,000 less than the current market value of the resources. The individual would be ineligible for benefits for six months if the uncompensated value of such assets exceeded $3,000 but not $6,000, twelve months if such value exceeded $6,000, but not $15,000, or twenty-four months if such value exceeded $15,000. The delay begins with the month after such disposition occurred. The eligibility restriction would cease the month after such resources are returned to him or he receives payment equal to the amount of the difference between the current market value and $3,000. Such a delay in eligibility for benefits would not apply when the applicant demonstrates that the assets were not disposed of for the purpose of qualifying for benefits. Effective beginning with the first month after the Secretary of HEW issues rules necessary to its implementation, but in no event before October 1, 1979 or later than the seventh month following the date of enactment. This provision would not apply to disposition of resources which occurred prior to such month. (*Sec. 215*)
(50) Rounding of Cost-of-Living Adjustments	When the Federal SSI benefit standard is adjusted for the annual cost-of-living increase, the monthly standard is rounded to the next higher multiple of ten cents.	Provides for rounding the annual SSI benefit amounts to the nearest $12.00, or, in monthly terms, to the nearest dollar. (This amendment parallels the Administration's proposal to round monthly benefit amounts under Title II of the Act to the nearest dollar. Effective beginning with cost-of-living increases made after October 1, 1979. (*Sec. 216*)

PART B—IMPROVEMENTS IN STANDARDS FOR DETERMINING ELIGIBILITY AND AMOUNT OF SUPPLEMENTAL SECURITY INCOME—continued

Item	Present Law	Committee Bill
(51) Attribution of Sponsor's Income and Resources to Aliens	To be eligible for SSI a person must be a resident of the United States and either a citizen or an "alien lawfully admitted for permanent residence in the United States or otherwise permanently residing in the United States under color of law."	Requires that, for the purposes of determining eligibility for SSI and amount of SSI benefits paid to a legal alien, the income and resources of any person who sponsored the alien's entry into the U.S. be deemed to the alien, except to the extent determined by the Secretary to be inequitable under the circumstances. Such deeming would be for the duration of the assurances of support contained in any executed affidavit or similar agreement of support, but for no longer than three years. This provision would not apply in the case of an alien who became eligible for SSI because of blindness or disability if the blindness or disability commenced after his admission to the United States or in cases where it is determined that good cause for a waiver of this provision exists. Effective October 1, 1979. (*Sec. 217*)
(52) Extension of Services Program for Disabled and Blind Children Receiving SSI	$30 million of Federal funds are authorized for allocation to states to provide services to blind and disabled children receiving SSI. Authorization for this program expires Sept. 30, 1979.	Extends program until September 30, 1982. (*Sec. 218*)
(53) Modification in Determination of Application of One-third Reduction Provision	If a SSI applicant or recipient is "living in the household of another and receiving support and maintenance in-kind" the value of such in-kind assistance is presumed to be equal to no more or less than one-third of the regular Federal SSI payment standard, and the SSI benefit standard for such an individual is reduced accordingly. "Living in the household of another and receiving support and maintenance in-kind" is defined by regulations to include a SSI applicant or recipient who has not been paying his pro rata share of the household's expenses. Determining whether an applicant for SSI is contributing his pro rata share does not take into account that receipt of some amount of SSI benefits might enable the individual to contribute his pro rata share.	The bill provides that, in determining whether an SSI applicant or recipient should have the one-third reduction applied against him, it shall be assumed that such individual has had available to him and has contributed toward the household's expenses no less than an amount equal to two-thirds of the full Federal SSI benefit standard plus state supplementation. If such an assumed contribution to the household equals or exceeds the individual's pro rata share of the household's expenses, he shall be deemed to be living in his own household and thus not subject to the one-third reduction provision of current law. Effective September 1, 1980. (*Sec. 219*)

PART C—IMPROVED ADMINISTRATION OF THE SUPPLEMENTAL SECURITY INCOME PROGRAM

Item	Present Law	Committee Bill
(54) Judicial Establishment of Fee for Representing SSI Claimants	Both title II (OASDI) and title XVI (SSI) prescribe limits on fees for representation of claimants in administrative proceedings. The SSI statute does not, however (compared to title II) provide for a court to establish a limit on the amount of fee which may be charged a SSI claimant in the case of a judgment favorable to a claimant who was represented before the court by an attorney.	Provides that, when a SSI claimant obtains a favorable judicial decision, the court may set a fee for the attorney who represented the claimant. The fee may not exceed 25 percent of past due SSI benefits, and will represent the full amount which the attorney can charge for his services in connection with that judicial proceeding. Effective up enactment. (*Sec. 231*)
(55) Monthly Computation Period for Determination of SSI Benefits	Determinations of eligibility and payment amount for a recipient of SSI are made on a quarterly basis. Determination of eligibility and payment amount for any month is generally *prospective*, based on the individual's anticipated income, resources, living arrangement, etc., for that quarter. Benefits are payable from the first day of the month for which individual is determined eligible.	Provides that SSI eligibility and benefits be determined on a prospective monthly rather than a quarterly basis. Effective on such date as the Secretary determines to be administratively feasible, but not before October 1, 1979 or later than the beginning of the fifth calendar quarter after the calendar quarter of enactment. (*Sec. 232*)
	If the initial application is made in the second or third month of a quarter, the determination of eligibility and payment amount is made on a monthly basis.	
(56) Elimination of Requirement for Representative Payment of SSI To Drug Addicts and Alcoholics	If it is medically determined that an individual who is receiving SSI is a drug addict or an alcoholic, it is required that payments to such individual be made through a representative payee. In general, SSA may make payments to an aged, blind or disabled recipient through a representative payee (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual, where appropriate to safeguard the individual's interest.	Deletes the requirement that a drug addict or alcoholic must have payments made on his behalf to a representative payee. Determination of a need for a representative payee would be made on the same basis and considerations as are now applied to other SSI recipients. Effective upon enactment. (*Sec. 233*)
(57) Replacement of Benefit Checks	Under current law and procedures, when a SSI recipient notifies the social security district office that his or her benefit check is lost or stolen, the district office requests the Treasury Department to issue a replacement check.	Authorizes SSA to issue directly checks or cash for the replacement of lost or stolen SSI checks. Effective with respect to benefit checks for the earliest month for which the Secretary determines it to be administratively feasible, but not before October 1, 1979, or later than the tenth month after the month of enactment. (*Sec. 234*)

Item	Present Law	Committee Bill
(58) "Modification in Mandatory Pass Through of SSI Cost-of-Living Increases"	States which supplement the Federal SSI payment are required to pass-through cost-of-living increases in the Federal SSI benefit standard. A state can meet this requirement by either maintaining the level of state supplementation payment or not decreasing the aggregate amount of state supplementation paid by a state.	Provides that vendor payments made by a state on behalf of SSI recipients residing in a domiciliary or personal care facility shall be counted in determining whether the state has not decreased its aggregate amount of expenditures for state supplementation. Effective upon enactment. (*Sec. 235*)
(59) Negotiability of SSI Checks	No specific time limitation in SSI law on negotiability of checks.	Provides that the negotiability of SSI checks will be limited to 180 days from date of issuance and that the amount from such unnegotiated checks which represents a state supplementation payment would be returned to the State. Effective October 1, 1979. (*Sec. 236*)
(60) Deletion of Obsolete Reference	Section 1631(d)(1) of the SSI law cross-references to a section under Title II (OASDI) which was repealed by another public law.	Deletes obsolete reference. (*Sec. 237*)
(61) Correction of Incorrect Reference of Public Law 92-603	The Social Security Act contains authority for reimbursing the trust funds for portions of administrative expenses attributable to SSI. This section was originally 202(g)(1)(A). In 1976, this provision was redesignated as 201(g)(1)(D) but the reference contained in the public law establishing the SSI program was not conformed to the redesignation.	Conforms cross reference in Public Law 92-603 to correct reference. (*Sec. 238*)

Item	Present Law	Subcommittee Bill
(62) Conditions Governing Availability of Certain Federal Records	Sec. 411 of the Social Security Act authorizes the Secretary of HEW to make available to the States, for purposes of eligibility or benefit determination, wage information contained in the records of the Social Security Administration.	Repeals Sec. 411 and amends title XI of the Social Security Act to cross reference the disclosure provisions of Section 6103 of the Internal Revenue Code of 1954. The cross-references: (a) cite Section 6103 for rules governing disclosure of certain tax return information in the files of the Social Security Administration for purposes directly connected with the administration of Social Security Act programs providing cash or medical assistance. The rules governing limitation on disclosure under Section 6103 of the Code are contained in the amendments made by Section 302 of this bill. Effective upon enactment; (b) provide authority for State unemployment compensation agencies to provide information necessary for the administration of those programs. Effective July 1, 1981. (*Sec. 301*)
(63) Disclosure of Tax Return Information	Tax returns and return information are confidential except as specifically provided by law.	Present Law.
	Certain information may be disclosed by the Treasury to the Social Security Administration and to local child support enforcement agencies for the purposes of administering the Social Security program and establishing and collecting child support obligations.	The Social Security Administration would be permitted to disclose to HEW and to local child support enforcement agencies tax return information which it has obtained from Treasury.
	The Code does not provide for disclosure of tax return information for the purpose of administering welfare and assistance programs under the Social Security Act.	The Social Security Administration would be permitted to disclose certain tax return information to HEW and to State welfare agencies for the purpose of determining an individual's eligibility for or the amount of benefits.
	Agencies receiving tax return information must provide safeguards, such as records of disclosure, secure area for storage, and restriction of access to certain individuals. Child support enforcement agencies must return this information or make it undisclosable when they have completed their use of this information.	Extends to State welfare agencies requirements for safeguards and for return of tax information.
	Unauthorized disclosure of tax return information by any employee of a State or local child support enforcement agency is a felony.	Extends penalty to information given to State welfare agencies. Effective October 1, 1979. (*Sec. 302*)

TITLE III—AMENDMENTS APPLICABLE TO TWO OR MORE PROGRAMS UNDER THE SOCIAL SECURITY ACT

Item	Present Law	Committee Bill
(64) Adjustments to Retroactive Benefits under Title II on Account of Advances in SSI Benefits	An individual eligible under both the OASDI and SSI program, whose determination of eligibility for OASDI is delayed, can in some cases receive full payment under both programs for the same months. Because SSI benefits are determined on a quarterly basis, retroactive title II benefits offset SSI benefits only for the quarter in which retroactive benefits are received.	Will allow the Secretary to offset, against retroactive benefits paid under Title II, amounts of SSI benefits paid for the same period for which the retroactive Title II payments is eventually made. The retroactive payment would be reduced by the amount of the SSI benefits which would not have been paid had there been timely payment made under Title II. Effective no later than 12 months after enactment. (Sec. 303)

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TITLE IV—CHILD SUPPORT ENFORCEMENT

Item	Present Law	Committee Bill
(65) Child Support Enforcement:		
(a) Collection of Support for Certain Adults Receiving AFDC	States are required to have a child support program for the purposes of establishing paternity, locating deserting parents, and collecting *child support* payments for AFDC families and for non-AFDC families who request such service.	Requires enforcement and collection of spouse support, in those cases in which that support obligation has already been established, for *adult* AFDC recipients, in the same manner as child support. (*Sec. 401*)
(b) Child Support Collection for Non-AFDC Families	To cover the administrative costs of the program, Federal funds are available at a 75-percent matching rate for AFDC recipients. Such matching funds were also available for *non-AFDC* recipients until September 30, 1978. States are allowed to charge an application fee of no more than $20 to non-AFDC families and to recover costs in excess of the application fee by deducting such costs from the amount of child support collected.	Effective October 1, 1979, makes 75-percent Federal matching funds available on a permanent basis for services provided to *non-AFDC* recipients. States would be required to charge non-AFDC recipients a fee equal to 10 percent of collections to cover administrative costs. (*Sec. 402*)

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Item	Present Law	Committee Bill
(65) Child Support Enforcement—Con.		
(c) Amendments Regarding Incentive Payments; and Incentive Payments to Tribal Governing Bodies	A 15 percent incentive payment, financed entirely from the Federal share of collections, is paid to States that enforce and collect support on behalf of other States, or to a political subdivision within a State that enforces or collects child support on behalf of that State.	Eliminates interstate incentive payments and makes all States, political subdivisions and tribal governing bodies eligible for incentive payments equal to 15 percent of the amount collected. Incentive payments will come from the full amount of collections, rather than just the Federal share of such collections. (*Secs. 403–404*)
(d) Three Months' Extension of AFDC Eligibility	The child support agency must notify the State AFDC agency when child support is collected on behalf of an AFDC recipient. The AFDC agency then redetermines the recipient's eligibility taking into account the child support payment. If the recipient's income including the child support payment exceeds the State's needs standard, the recipient's benefits are terminated.	Allows States to continue AFDC payments for a period of three (3) months following the time child support collections would otherwise make the family ineligible. (*Sec. 405*)
(e) Method of Determining Reimbursement to the Federal Government	Requires that the Federal share of child support collections retained to reimburse the Federal government for past assistance payments to AFDC families be calculated on the basis of the Federal AFDC matching rate in effect when the AFDC payment was made.	Specifies that Federal reimbursement would be based on the matching rate in effect for the quarter in which the collection is distributed. (*Sec. 406*)
(f) Method of Payment for Support Collection Services	State must have an adequate reporting system. No sanction for failure to make timely reports.	Prohibits advances of Federal funds to a State child support enforcement agency unless a full and timely report of collections and expenditures was made to the Secretary. (*Sec. 407*) Effective date for all provisions of section 401 is October 1, 1979.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3236, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Social Security Disability Amendments of 1979".

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TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this

subsection which would otherwise be applicable, shall be, reduced or further reduced, (before the application of section 224) to the smaller of—

"(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 160 percent of such individual's primary insurance amount.".

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a) (6) and (7)" and inserting in lieu thereof "section 203(a)(7) and (8)".

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1979).".

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after 1979.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

"(2)(A) The number of an individual's benefit computation year equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by 1 year or, if greater, the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years. Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.".

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits after 1979.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided after June 1980.

CONTINUATION OF MEDICARE ELIGIBILITY

SEC. 104. (a) Section 226(b) of such Act is amended—

(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.".

(b) The amendment made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER SSI

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Title XVI of the Social Security Act is amended by adding after section 1618 the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability, and would otherwise be denied benefits by reason of section 1611(e)(4), who ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

"(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

"(b) Any individual who would qualify for a monthly benefit under subsection (a) except that his income exceeds the limit set forth in subsection (a)(2), and any blind individual who would qualify for a monthly benefit under section 1611 except that his income exceeds the limit set forth in subsection (a)(2), for purposes of titles XIX and XX of this Act, shall be considered a blind or disabled individual receiving supplemental security income benefits under this title for so long as the Secretary determines under regulations that—

"(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and titles XIX and XX.".

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.".

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

"(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).".

(c) The amendments made by this section shall become effective on July 1, 1980, but

shall remain in effect only for a period of three years after such effective date.

(d) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by this section so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) remuneration received for services performed in a sheltered workshop or work activities center; and".

(b) The amendments made by this section shall apply only with respect to remuneration received in months after June 1980.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18".

(b) The amendment made by subsection (a) shall become effective on July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in June 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(2) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

(b) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(c) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 302. (a) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of big earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(b) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(c) The amendments made by this section shall apply with respect to expenses incurred on or after July 1, 1980.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202(e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out "or the third month following the month in which his disability ceases." at the end of the first sentence and inserting in lieu thereof "or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity),".

(C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from

a disabling physical or mental impairment, or (ii) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).".

(c)(1)(A) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be conidered to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.".

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)".

(2) Section 1611(e) of such Act is amended by adding at the end thereof following new paragraph:

(4) No benefit shall be payable under this title, except as provided in section 1619, with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).".

(d) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows:

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month under what conditions) the State may again make disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt,

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

"(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.".

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

"(2) If a State having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).".

(c) Section 221(c) of such Act is amended to read as follows:

"(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination.

"(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.".

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perfrom disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

(h) The Secretary of Health, Education, and Welfare shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required

to carry out such plan, recommendations for such amendment should be included in the report.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

(c) The amendments made by this section shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).".

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;"

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 308. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.".

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after July 1, 1980.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title.".

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection:

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transporation appropriate to such person's health condition, as specified in such regulations.".

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.".

(b) The amendment made by this section shall become effective on the first day of the thirteenth month that begins after the date of the enactment of this Act.

SCOPE OF FEDERAL COURT REVIEW

SEC. 312. Section 205(g) of the Social Security Act is amended by striking out "if supported by substantial evidence" and inserting in lieu thereof "unless found to be arbitrary and capricious".

REPORT BY SECRETARY

SEC. 313. The Secretary of Health, Education, and Welfare shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking so much of subparagraph (A) as follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment-related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) in clause (vi) of subparagraph (A), by striking out "under section 433(g)";

(3) by striking out the word "or" after clause (v);

(4) by adding the word "or" after clause (vi); and

(5) by adding after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;".

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid".

(c) Section 402(a)(19)(D) of such Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)".

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, in the matter preceding clause (i), "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" and inserting in lieu thereof "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual", and

(2) by inserting "and" at the end of clause (iv), and by striking so much of such subparagraph (F) as follows clause (iv).

(e) Section 402(a)(19)(G) of such Act is amended—

(1) in clause (i), by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b)(1), (2), or (3))" immediately after "administrative unit",

(2) by striking out, in clause (ii), "subparagraph (A)," and inserting in lieu thereof "subparagraph (A) of this paragraph, (I)",

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b)(1), (2), or (3)", and

(4) by striking out, in clause (ii), "employment or training under part C," and inserting in lieu thereof "employment or training under section 432(b)(1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,".

(f) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b)(1), (2), or (3)".

(g) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.".

(h) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on January 1, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date and take effect on such date.

SEVENTY-FIVE PERCENT FEDERAL MATCHING FOR CERTAIN EXPENDITURES FOR INVESTIGATING AND PROSECUTING CASES OF FRAUD UNDER STATE AFDC PLANS

SEC. 402. (a) Section 403(a)(3) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by adding after subparagraph (A) the following new subparagraph:

"(B) 75 per centum of so much of such expenditures as are directly attributable to costs incurred (as found necessary by the Secretary) (i) in the establishment and operation of one or more identifiable fraud control units the purpose of which is to investigate and prosecute cases of fraud in the provision and administration of aid provided under the State plan, (ii) in the investigation and prosecution of such cases of fraud by attorneys employed by the State agency or by local agencies administering the State plan in a locality within the State, and (iii) in the investigation and prosecution of such cases of fraud by attorneys retained under contract for that purpose by the State agency or such a local agency, and".

(b) Section 403(a)(3) of the Social Security Act (as amended by subsection (a) of this section) is further amended by inserting immediately before the semicolon at the end thereof the following: ", and no payment shall be made under subparagraph (B) unless the State agrees to pay to any political subdivision thereof, an amount equal to 75 percentum of so much of the administrative expenditures described in such subparagraph as were made by such political subdivision".

(c) The amendments made by this section shall be applicable only with respect to expenditures, referred to in section 403(a)(3)(B) of the Social Security Act (as amended by this section), made on or after April 1, 1980.

USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

SEC. 403. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting "(or undertaken to be collected by such State pursuant to section 454(6))" immediately after "assigned to such State".

(b) The amendment made by this section shall take effect January 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION UNDER AFDC AND SOCIAL SERVICE PROGRAMS

SEC. 404. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B) thereof,

(2) by inserting immediately after "need" at the end of clause (C) thereof the following: ", and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity", and

(3) by inserting "(other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any governmental entity referred to in clause (D) with respect to an activity referred to in such clause)" immediately after "committee or a legislative body".

(b) Section 2003(d)(1)(B) of the Social Security Act is amended—

(1) by striking out "XVI, or" and inserting in lieu thereof "XVI,", and

(2) by inserting immediately after "XIX" the following: ", or any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity".

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

SEC. 405. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter (beginning with the quarter which commences January 1, 1980) for the operation of the plan approved under section 454, so much of the expenditures of courts (including, but not limited to, expenditures for or in connection with judges, or other individuals making judicial determinations, and other support and administrative personnel) of such State (or political subdivisions thereof) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

"(3) So much of the payment to a State under subsection (a) for any quarter as is payable by reason of the provisions of this subsection may, if the law (or procedures established thereunder) of the State so provides, be made directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.".

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 455(a) of the Social Security Act is amended by—

(1) striking out "and" at the end of clause (1),

(2) inserting "and" at the end of clause (2), and

(3) adding after and below clause (2) the following new clause:

"(3) equal to 90 percent (rather than the percent specified in clause (1) (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified 454(16);".

(b) Section 454 of such Act is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding after paragraph (15) the following new paragraph:

"(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribtuion of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement.".

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support of, in, or relating to, such system,

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

"(G) provides such other information as the Secretary determines under regulation is necessary.

"(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3) with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under section 452(d)(1) and the conditions specified under section 454(16).

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(d) Section 452 of the Social Security Act is further amended by inserting after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3) of this Act.".

(e) The amendments made by this section shall take effect on January 1, 1980, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 407. (a) Section 403(a)(3) of the Social Security Act is amended by—

(1) striking out "and" at the end of subparagraph (B) (as added by section 402(a) of this Act);

(2) redesignating subparagraph (C) thereof (as redesignated by section 402(a) of this Act) as subparagraph (E); and

(3) by adding after subparagraph (B) (as redesignated by such section) the following new subparagraphs:

"(C) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX,

"(D) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (C) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and".

(b)(1) Section 402(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of subparagraph (28),

(B) by striking out the period at the end of subparagraph (29) and inserting in lieu of such period the following: "; and", and

(C) by adding after and below subparagraph (29) thereof the following new subparagraph:

"(30) at the option of the State, provide, effective April 1, 1980 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to or use of, the data in such system.".

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system referred to in section 403(a)(3)(D), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plain containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing description, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

"(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(C), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(C) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Title IV of the Social Security Act is further amended by inserting after section 411 the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 412. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(C) of this Act,".

(d) The amendments made by this section shall take effect on April 1, 1980.

EXPENDITURES FOR THE OPERATION OF STATE PLANS FOR CHILD SUPPORT

SEC. 408. (a) Section 455(b)(2) of such Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (d), the Secretary",

(b) Section 455 is further amended by adding after subsection (c) thereof (as added by section 405 of this Act) the following new subsection:

"(d) Notwithstanding any other provisions of law, no amount shall be paid to any State under this section for the quarter commencing July 1, 1980, or for any succeeding quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c)(1) Section 403(b)(2) of the Social Security Act is amended—

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

(B) by adding immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section".

(2) The amendments made by paragraph (1) shall be effective in the case of calendar quarters commencing after the date of enactment of this Act.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT STATE PLANS FOR CHILD SUPPORT

SEC. 409. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ACCESS TO WAGE INFORMATION

"SEC. 463. (a) Notwithstanding any other provision of law, the Secretary shall make available to any State (or political subdivision thereof) wage information (other than returns or return information as defined in section 6103(b) of the Internal Revenue Code of 1954), including amounts earned, period for which it is reported, and name and address of employer, with respect to an individual, contained in the records of the Social Security Administration, which is necessary for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 which has been approved by the Secretary under this part, and which information is specifically requested by such State or political subdivision for such purposes.

"(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.

"(c) For disclosure of return information (as defined in section 6103(b) of the Internal Revenue Code of 1954) contained in the records of the Social Security Administration for purposes described in paragraph (a), see section 6103(l)(7) of such Code.".

(b) Section 3304(a) of the Federal Unemployment Tax Act is amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

"(17)(A) wage and other relevant information (including amounts earned, period for which reported, and name and address of employer), with respect to an individual, contained in the records of the agency administering the State law which is necessary (as jointly determined by the Secretary of Labor and the Secretary of Health, Education, and Welfare in regulations) for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 of the Social Security Act which has been approved by such Secretary under part D of title IV of such Act, and which information is specifically requested by such State or political subdivision for such purposes, and

"(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)(1) Section 6103(l) of the Internal Revenue Code of 1954 is amended by inserting after paragraph (6) the following new paragraph:

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO STATE AND LOCAL WELFARE AGENCIES.—

"(A) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Officers and employees of the Social Security Administration shall, upon request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a)) and wages (as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, to other officers and employees of the Department of Health, Education, and Welfare for a necessary purpose described in section 463(a) of the Social Security Act.

"(B) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION DIRECTLY TO STATE AND LOCAL AGENCIES.—Officers and employees of the Social Security Administration shall, upon written request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a) and wages as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 463(a) of the Social Security Act.

"(C) DISCLOSURE BY AGENCY ADMINISTERING STATE UNEMPLOYMENT COMPENSATION LAWS.—Officers and employees of a State agency, body, or commission which is charged under the laws of such State with the responsibility for the administration of State unemployment compensation laws approved by the Secretary of Labor as provided by section 3304 shall, upon written request, disclose return information with respect to wages (as defined in section 3306(b)) which has been disclosed to them as provided by this title directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 3304(a)(16) or (17).".

(2) Section 6103(n) of the Internal Revenue Code of 1954 is amended to read as follows:

"(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary—

"(1) returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programing, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration, and

"(2) return information disclosed to officers or employees of a State or local agency, body, or commission as provided in subsection (l)(7) may be disclosed by such officers or employees to any person to the extent necessary in connection with the processing and utilization of such return information for a necessary purpose described in section 463(a) of the Social Security Act,".

(3) Paragraph (3)(A) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(4) Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out "agency, body, or commission described in subsection (d) or (l)(3) or (6)" and inserting in lieu thereof "agency, body, or commission described in subsection (d) or (l)(3), (6), or (7)".

(5) Subparagraph (F)(1) of paragraph (4) of section 6103(p)(4) of the Internal Revenue Code of 1954 is amended by striking out "an agency, body, or commission described in subsection (d) or (l)(6)" and inserting in lieu thereof "an agency, body, or commission described in subsection (d) or (l)(6) or (7)".

(6) The first sentence of paragraph (2) of section 7213(a) of the Internal Revenue Code is amended by striking out "subsection

(d), (1)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (1) (6) or (7), or (m)(4)(B)".

(d) The amendments made by this section shall take effect on January 1, 1980.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFIT UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1132. Notwithstanding any other provision of this Act, in any case where an individual—

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616 (a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1132.".

(c) Section 1631(b) of such Act is amended by—

(1) inserting "(1)" immediately after "(b)", and

(2) adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1132.".

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined after March 31, 1980.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981.".

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYEES

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and".

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980.

(c) The provisions of section 7 of Public Law 94-202 shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which designed to carry out the purposes of subsection (a) of this section.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(a)(1)(B) of the Social Security Act is amended to read as follows:

"(B) is a resident of the United States, and is either (i) a citizen, or (ii) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or who has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act) and who has resided in the United States throughout the 3-year period immediately preceding the month in which he applies for benefits under this title. For purposes of clause (ii), an alien shall not be required to meet the 3-year residency requirement if (I) such alien has been lawfully admitted to the United States as a refugee as a result of the application of the provisions of section 203(a)(7) or has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act, or has been granted political asylum by the Attorney General, or (II) such alien is blind (as determined under paragraph (2)) or disabled (as determined under paragraph (3)) and the medical condition which caused his blindness or disability arose after the date of his admission to the United States for permanent residence. For purposes of the preceding sentence, the medical condition which caused his blindness or disability shall be presumed to have arisen prior to the date of his admission to the United States for permanent residence if it was reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition existed and would result in blindness or disability within 3 years after such date of admission, and the medical condition which caused his blindness or disability shall be presumed to have arisen after such date of admission to the United States for permanent residence if the existence of such medical condition was not known on or before such date of admission, or, if the existence of such medical condition was known, it was not reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition would result in blindness or disability within 3 years after such date of admission.".

(b) The amendment made by subsection (a) shall apply only with respect to aliens applying for supplemental security income benefits under title XVI of the Social Security Act on or after January 1, 1980.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 505. (a) The Secretary of Health, Education, and Welfare is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health, Education, and Welfare. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of $2,000,000 for any fiscal year) as may be necessary.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 506. (a)(1) The Secretary of Health, Education, and Welfare shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions application to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alter-

native methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary of Health, Education, and Welfare to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) The Secretary of Health, Education, and Welfare shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this section together with any related data and materials which he may consider appropriate.

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

(k) Expenditures made for experiments and demonstration projects under section 506(a) of the Social Security Disability Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

(b) The Secretary of Health, Education, and Welfare is authorized to waive any of the requirements, conditions, or limitations of title XVI of the Social Security Act (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of such Act or any other Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefits) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616 of such Act), or to provide medical assistance under its plan approved under title XIX of such Act, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI of such Act.

(c) Any requirements of title II of Public Law 93-348 otherwise held applicable are hereby waived with respect to conditions of payment of benefits under title II or XVI of the Social Security Act or to coverage, or copayments, deductibles, or other limitations on payment for services (whether of general application or in effect only on a trial or demonstration basis) under programs established under titles XVIII and XIX of such Act. Notwithstanding the first sentence of this subsection, the Secretary of Health, Education, and Welfare in carrying out, approving, or reviewing any application for, any experimental, pilot, or demonstration project pursuant to the Social Security Act or this Act shall apply any appropriate requirements of title II of Public Law 93-348 and any regulations promulgated thereunder in making his decision on whether to approve such application.

(d) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this subsection no later than five years after the date of the enactment of this Act.

INCLUSION IN WAGES OF FICA TAXES PAID BY EMPLOYER

SEC. 507. (a) Section 209(f) of the Social Security Act is amended by striking out all that follows "(without deduction from the remuneration of the employee)" and inserting in lieu thereof "(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 for wages paid for domestic service in a private home of the employer, or (2) of any payment required from an employee under a State unemployment compensation law;".

(b) Section 3121(a)(6)(A) of the Internal Revenue Code of 1954 is amended to read as follows:

"(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic service in a private home of the employer, or".

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1980.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Kansas (Mr. DOLE) with 1 hour on any amendment, except one Wallop amendment dealing with Workmen's Compensation, and one dealing with eliminating disability insurance for students between the ages of 18 and 22, on each of which there shall be 1 hour, and a Percy amendment to the Immigration Act making a sponsor's affidavit an enforceable agreement, on which there shall be 1 hour, and with 20 minutes on any debatable motion, appeal, or point of order.

The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I ask unanimous consent that the following staff members of the Committee on Finance be allowed on the floor during debate and votes on H.R. 3236, the Social Security Disability Amendments of 1979: Michael Stern, Joseph Humphreys, William Galvin, Robert Hoyer, Robert Lighthizer, Roderick DeArment, Linda McMahon, and from the Library of Congress: Dave Koitz and Margaret Malone.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, when the social security program was amended in the 1950's to add benefits for disabled workers and their families, it was estimated that those disability benefits could be permanently financed by a social security tax rate of only two-tenths of 1 percent on employee and employer, each. That is about $5 billion per year at today's payroll levels. In fact the average tax rate now required to support the program is 1.92 percent—nearly a full percent for employer and employee, each. This is the equivalent of $22 billion at today's payroll levels.

While some of this fourfold increase in the costs of the disability program reflects conscious efforts by Congress to improve the adequacy of the program, it is clear that the increase cannot all be justified on that basis. A part of the increased cost of the program can be attributed to problems of benefit structure which perversely discourage disabled individuals from attempting to remain or become independent and to problems of administration. The Finance Committee bill improves the program's benefit structure so as to minimize elements which discourage employment and to emphasize elements which make it easier for disabled workers to return to work. The bill also contains many features which will strengthen the administration of the program.

To tighten up on the loose end, the bill includes a limitation on benefits in certain cases. There are cases where present law produces a benefit level equal to such a large portion of the individual's predisability earnings that it can remove any incentive for him to seek rehabilitation.

To loosen up on the tight end, the bill aims to improve the incentives of those who do seek reemployment. The bill minimizes the risks of returning to work by making it much easier to return to the benefit rolls if the work attempt fails. In the same vein, the bill eliminates the sudden loss of medicare coverage which under present law occurs when cash benefits end. Under the bill, medicare coverage would continue for 2 years after cash benefits are ended.

The bill also modifies the supplemental security income program for needy disabled persons to encourage rehabilitation by limiting the loss of cash, medicaid, and social services benefits when a recipient returns to work. Also included in the bill are numerous other changes in the social security and SSI programs and several amendments to improve the programs of aid to families with dependent children and child support enforcement.

I ask unanimous consent that a more detailed summary of the bill be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 3236: SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

DISABILITY INSURANCE

Present benefit structure.—Social security disability insurance benefits are based on an individual's previous earnings. The formula for determining benefit amounts is the same for disability benefits as for social security retirement benefits. The benefit level is arrived at by applying a formula to the average earnings the individual had over a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of

years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by five. The basic benefit amount may be increased if the worker has a dependent spouse or children. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

Limit on family benefits.—A provision of the House bill (H.R. 3236) would limit total DI family benefits to an amount equal to the smaller of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). (AIME is the basis used under present law for determining benefit amounts.) The committee bill would limit total DI family benefits to an amount equal to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. Under the provision no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals who first become entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978.

The Secretary would be required to report to the Congress by January 1, 1985 on the effect of the limitation on benefits and of other provisions of the bill.

Reduction in dropout years.—Under current law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes. The committee bill includes a provision, which would apply to all disabled workers who first become entitled after 1979, that would exclude years of low earnings (or no earnings) in the computation of benefits according to the following schedule:

Worker's age:	*Number of dropout years*
Under 32	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The provision would become effective in January 1980.

Medicare waiting period.—At the present time DI beneficiaries must wait 24 months after becoming entitled to benefits to become eligible for medicare. If a beneficiary returns to work and then becomes disabled again, another 24-month waiting period is required before medicare coverage is resumed. The committee bill eliminates the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. The amendment would apply to workers becoming disabled again within 60 months, and to disabled widows and widowers and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls, but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within those time periods.

Extension of medicare for DI beneficiaries.—Under present law, medicare coverage ceases when an individual loses his disability status. The committee would extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered.

SUPPLEMENTAL SECURITY INCOME

Benefits for SSI recipients who perform substantial gainful activity.—Under present law an individual qualifies for SSI disability payments only if he is "unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than 12 months." The Secretary of Health, Education, and Welfare is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in substantial gainful activity is $280 a month. Thus, when an SSI recipient has earnings (following a trial work period) which exceed this amount, he loses eligibility for cash benefits and may also lose eligibility for medicaid and social services.

The committee bill includes an amendment which provides that a disabled individual who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the cash benefits to be reduced to zero ($481 at the present time), the special benefit status would be terminated for purposes of eligibility for medicaid and social services, unless the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision authorizing continuation of medicaid and social services after a finding by the Secretary would also apply to the blind. The committee provision would be limited to three years to give the committee the opportunity to review the effectiveness of the provision. The committee provision also requires the Social Security Administration to provide for separate accounting of any funds spent under the provision. This will enable both the Administration and the committee to evaluate the magnitude and the effect of the provision. Separate identification of these benefits would also serve to emphasize the intent that the provision not be administered as a change in the overall definition of disability.

Employment in sheltered workshops.—Under present law, earnings from employment in a sheltered workshop that is part of an active rehabilitation program are not considered earned income for purposes of determining the payment under SSI. The committee bill provides that earnings received in sheltered workshops and work activities centers would be considered as earned income, rather than unearned income, for purposes of determining SSI benefits. This would assure that individuals with earnings from these kinds of activities would have the advantage of the earned income disregards provided in law for earnings from regular employment.

Deeming of parents' income to disabled or blind children.—Present law requires that the parents' income and resources be deemed to a blind or disabled child in determining the child's eligibility for SSI. The term "child" is defined to include individuals under 18, or 22 in the case of an individual who is in school or in a training program. The committee bill provides that for purposes of SSI eligibility determination, the "deeming" of parents' income and resources would be limited to disabled or blind children under 18 regardless of student status. Those individuals who on the effective date of the provision are age 18 and over are receiving benefits at that time and would be protected against loss of benefits due to this change.

PROVISIONS RELATING TO THE TITLE II AND TITLE XVI DISABILITY PROGRAMS

Termination of benefits for persons in vocational rehabilitation programs.—Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled in a vocational rehabilitation program. The committee bill provides that disability benefits would not be terminated due to medical recovery if the beneficiary is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the beneficiary may be permanently removed from the disability rolls.

Deduction of impairment-related work expenses.—The committee bill includes a provision to permit the deduction of costs of impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity. This deduction would be made both in the case where the individual pays the costs himself, and where the cost is paid by a third party. The Secretary of HEW would be given authority to specify in regulations the type of care, services, and items that may be considered necessary to enable a disabled person to engage in SGA, and the amount of earnings to be excluded subject to such reasonable limits based on actual, prevailing costs as the Secretary would prescribe.

Reentitlement to benefits.—Under present law, when an individual completes a 9-month trial work period and continues to perform substantial gainful activity, his benefits are terminated. If he later becomes unable to work, the individual must reapply for benefits and go through the adjudication process again. The committee bill provides that for purposes of the DI and SSI programs the present 9-month trial work period would be extended 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails. The bill also provides that the same trial work period would be applicable to disabled widow(er)s. (Under present law, when the 9-month trial work period is completed, three additional months of benefits are provided. The committee provision would not alter this aspect of present law.)

Administration by State agencies.—Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. The committee bill would require that disability determinations be made by State agencies according to regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function "in order to assure effective and uniform administration of the disability insurance program throughout the United States."

The committee bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the provision allows for termination by the State. The State

is required to continue to make disability determinations for 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Federal review of State agency determinations.—Under current administrative procedures of the Social Security Administration, approximately 5 percent of disability claims approved by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. The committee amendment would have the effect, over time, of reinstituting a review procedure used by SSA until 1972 under which most State disability allowances were reviewed prior to the payment of benefits. The committee bill provides for preadjudicative Federal review of at least 15 percent of allowances and denials in fiscal year 1981, 35 percent in 1982, and 65 percent in years thereafter.

Periodic review of disability determinations.—Under current administrative procedures, a disability beneficiary's continued eligibility for benefits is reexamined only under a limited number of circumstances. The committee bill would require that unless there has been a finding that an individual's disability is permanent, there would have to be a review of the case at least once every 3 years to determine continuing eligibility. The Social Security Administration would continue to be authorized to review the eligibility of permanently disabled individuals.

Other administrative changes.—The committee bill includes a number of other provisions intended to strengthen administrative practices particularly in regard to the handling of initial claims and cases denied which are under appeal. These provisions would:

1. Require that notices of disability denial be provided to claimants expressed in language understandable to the claimant, which include a discussion of the evidence of record and the reasons why the disability claim is denied.

2. Authorize the Secretary to pay all non-Federal providers for costs of supplying medical evidence of record in title II claims as is done in title XVI (SSI) claims.

3. Provide permanent authority for payment of the travel expenses of claimants (and their representatives in the case of reconsiderations and ALJ hearings) resulting from participation in various phases of the adjudication process.

4. Eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the court to the Secretary upon motion by the Secretary. Instead, remand would be discretionary with the court, and only on motions by the Secretary where "good cause" was shown.

5. Continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but add the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

6. Modify present law with respect to court review to provide that the Secretary's determinations with respect to facts would be final unless found to be arbitrary and capricious.

7. Foreclose the introduction of new evidence with respect to an application after the decision is made at the administrative law judge hearing level. At the present time new evidence may be introduced until all levels of administrative review have been exhausted (through the Appeals Council).

8. Require the Secretary to submit a report to Congress by July 1, 1980, recommending appropriate case processing time limits for the various levels of adjudication.

AID TO FAMILIES WITH DEPENDENT CHILDREN AND CHILD SUPPORT PROGRAMS

AFDC work requirement.—Under present law, recipients of AFDC are required to register for manpower training and employment services under the work incentive (WIN) program, unless they are statutorily exempt. Individuals who participate in the WIN program also receive supportive services, including child care, if these services are necessary to enable them to participate. Under the committee amendment AFDC recipients who are not exempt from registration by law would be required, as a condition of continuing eligibility for AFDC, to register for, and participate in, employment search activities, as a part of the WIN program. The amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment, and for a period thereafter, as are necessary and reasonable to enable him to retain employment. In addition, it would allow States to match the Federal share for social and supportive services with inkind goods and services, instead of being required to make only a cash contribution. The amendment would provide for locating manpower and supportive services together to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be terminated, and authorize the Secretaries of Labor and Health, Education, and Welfare to establish the period of time during which an individual will continue to be ineligible for assistance in the case of a refusal without good cause to participate in a WIN program. The amendment would also clarify the treatment of earned income derived from public service employment.

Matching for AFDC antifraud activities.—Under present law, Federal matching for AFDC administrative costs, including antifraud activities, is limited to 50 percent. The committee amendment would increase the matching rate to 75 percent for State and local antifraud activities for costs incurred (1) by the welfare agencies in the establishment and operation of one or more identifiable fraud control units; (2) by attorneys employed by the State or local welfare agencies (but only for costs identifiable as AFDC antifraud activities); and (3) by attorneys retained under contract (such as the office of the State attorney).

Use of IRS to collect child support for non-AFDC families.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the State has made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health, Education, and Welfare, or his designee. The committee amendment would extend IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

Safeguarding information.—Present law provides in part that State plans under title IV-A (AFDC) include safeguards which prevent disclosure of the name or address of AFDC applicants or recipients to any committee or a legislative body. HEW regulations include Federal, State, or local committees or legislative bodies under this provision. Under their guidelines, HEW exempts audit committees from this exclusion. Several States, however, do not honor the HEW exemption. The committee bill would modify this section of the act to clarify that any governmental agency (including any legislative body or component or instrumentality thereof) authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. The amendment would make similar changes with regard to audits under title XX of the Social Security Act.

Federal matching for child support duties performed by court personnel.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. Federal regulations are now written in such a way as to allow States to claim Federal matching for the compensation of district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for or in connection with judges or other court officials making judicial decisions, and other supportive and administrative personnel.

The committee bill would allow Federal matching for these administrative expenses of the IV-D program. Matching would cover expenditures (including compensation) for judges or other persons making judicial determinations, and other support and administrative personnel of the courts who perform IV-D functions, but only for those functions specifically identifiable as IV-D functions. Current levels of spending in the State for these newly matched activities would have to be maintained. No matching would be available for expenditures incurred before January 1, 1980.

Child support management information system.—Under present law States and localities that wish to establish and use computerized information systems in the management of their child support programs receive 75 percent Federal matching of their expenditures. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the systems. The cost of operating such systems would continue at the 75 percent matching rate. Under the amendment, the Office of Child Support Enforcement would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. Continuing review of the State systems would also be required.

AFDC management information system.—States may currently receive 50 percent Federal matching for the cost of computerized management information systems as an element of AFDC administrative costs. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the computer information systems and to 75 percent for their operation, provided the system meets the requirements imposed by the amendment. Under the amendment, the Department of Health, Education, and Welfare would be required to provide technical assistance to the States and to approve the State system as a condition of Federal matching. (Continuing technical assistance and review of the State systems would also be required.) In approving systems, the Department would have to assure compatibility among the other public assistance, medicaid, and social service systems in the States and among the AFDC systems of different jurisdictions.

Child support reporting and matching procedures.—Present law requires that the Federal Office of Child Support Enforcement

(1) maintain adequate records (for both AFDC and non-AFDC families) of all amounts collected and disbursed, and of the costs of collection and disbursement, and (2) publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. Present law also provides that the States will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate reporting system is required.

The committee amendment would prohibit advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. The amendment would also allow the Department of Health, Education, and Welfare to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Access to wage information for child support program.—Under title IV-D of the Social Security Act, States are required to have separate child support agencies to establish paternity and obtain support for any child who is an applicant for or recipient of AFDC. These State agencies must also provide child support services to non-AFDC families if they apply for child support services. HEW regulations require the State agencies to establish and to periodically review the amount of the support obligation, using the statutes and legal processes of the State.

The committee amendment would provide authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies for purposes of the child support program. The Labor Department and the Department of HEW would be authorized to establish necessary safeguards against improper disclosure of the information.

OTHER PROVISIONS AMENDING THE SOCIAL SECURITY ACT

Relationship between social security and SSI benefits.—A substantial portion of SSI recipients are also eligible for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act. Though the two programs are administered by the same agency, it can sometimes happen that an individual's first check under one program will be delayed. If the SSI check is delayed, retroactive entitlement takes into account the amount of income the individual had from social security. However, if the title II check is delayed, a windfall to the individual can occur since it is not possible to retroactively reduce his SSI benefits beyond the beginning of the current quarter. The committee amendment provides that an individual's entitlement under the two titles shall be considered as a totality so that if payment under title II is delayed and therefore results in a higher payment under title XVI, the adjustment made in the case of any individual would be the net difference in total payment. There would be proper accounting adjustments to assure that the appropriate amounts were charged to the general fund and the trust funds respectively. Any appropriate reimbursements would also be made to the States where State supplementary benefits are involved.

Extension of term of the National Commission on Social Security.—The committee bill would extend for three months the expiration date of the National Commission on Social Security and the terms of its members. Under the committee provision, the Commission's work and the terms of its members would end on April 1, 1981.

Frequency of FICA deposits from State and local governments.—Under current regulations, State and local governments are required to deposit their FICA taxes 45 days after the end of each calender quarter. Regulations recently promulgated would increase the frequency of the deposits to a monthly schedule beginning in July 1980. These regulations require that FICA deposits for the first 2 months in a calendar quarter be due 15 days after the end of each month, and that deposits for the third month of the calendar quarter be due 45 days after the end of that month. These regulations were issued in final form on November 20, 1978, and by law cannot become effective until at least 18 months have passed from the date of final publication. The committee bill includes a provision requiring that FICA deposits from State and local governments be due 30 days after the end of each month. The provision would be effective beginning July 1980.

Aliens under SSI.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law". The latter category refers primary to refugees who enter as conditional entrants or parolees. An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported. However, such assurances are not legally binding on the sponsor of the alien. Under present law, an alien is required to be in the United States for only 30 days before becoming eligible for SSI. The committee amendment would require an alien to reside in the United States for 3 years before he would be eligible for SSI.

Demonstration authority to provide services to the terminally ill.—The committee bill authorizes the Social Security Administration to participate in a demonstration project which has as its purpose to determine how best to provide services needed by persons who are terminally ill. The committee provision authorizes up to $2 million a year to be used by the Social Security Administration for this purpose.

Demonstration projects.—Under present law, the Secretary of Health, Education, and Welfare has no authority to waive requirements under titles II, XVI, and XVIII to conduct experimental or demonstration projects. The committee bill would authorize the waiver of certain benefit requirements of titles II and XVIII (medicare) to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries, with a report to Congress required by January 1, 1983. The bill would also provide demonstration authority to cover other areas of the DI program beyond the purpose of stimulating a return to work (for example, the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the program is administered earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation).

In addition, the Secretary would be authorized to conduct experimental, pilot, or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program.

The committee bill would authorize the Secretary to waive certain requirements of the human experimentation statute, but would require that the Secretary in reviewing any application for any experimental, pilot, or demonstration project pursuant to the Social Security Act must take into consideration the human experimentation law and regulations in making his decision on whether to approve the application. The committee does not intend that this provision modify the requirements of the human experimentation staute as they apply to direct medical experimentation with actual diagnosis or treatment of patients.

Social security tax status of employee social security taxes paid by employers.—In general, employers are required to pay an *employer* social security tax on the wages they pay their employees and to withhold from those wages an equal *employee* social security tax. As an alternative to this procedure, however, present law allows employers to assume responsibility for both the employer and employee taxes instead of withholding the employee's share from his wages. Under this alternative procedure, the payment by the employer of the employee's social security tax represents, in effect, an additional amount of compensation. However, existing law specifically exempts that amount of additional compensation from social security taxes. The net effect is that for a given level of total compensation somewhat lower social security taxes would be payable if the employer pays the employee social security tax instead of withholding it from the employee's wages. Because of the level of social security taxes now in effect, this procedure could significantly lower social security trust fund receipts if the practice became widespread. The committee amendment would include the amount of any employer payment of the employee share of social security taxes in the employee's taxable income for purposes of social security taxation. The amendment would not apply to situations in which the employee share of social security taxes are paid by an employer for an individual who is employed as a domestic.

Voluntary standards for "medi-gap" health insurance.—The Medicare program places certain limitations on the kinds of health services which are covered. In addition, there are deductibles and coinsurance amounts for which the beneficiary is liable. In order to supplement their Medicare coverage, nearly two-thirds of the aged population purchases private supplemental health insurance—the so-called "Medi-Gap" policies. Detailed hearings held by the Senate and House Aging Committees, the House Interstate and Foreign Commerce Committee, and other investigations have identified numerous and widespread abuses in the sale of Medi-Gap policies.

To assist beneficiaries to avoid exploitation, the Committee adopted a provision that would require the Secretary of Health, Education and Welfare to establish a voluntary program for certification of Medi-Gap policies which meet certain minimum standards.

Under the proposed amendment, companies could, on a voluntary basis, submit policies to the Secretary to be certified as meeting certain prescribed standards. The Secretary would have until July 1, 1981 to make the certification procedure effective.

The certification standards would require that a policy: supplement both part A and part B of Medicare; be written in understandable language and form; not limit benefits for more than an initial six-month period because of a health condition existing before the policy was effective; prominently display a "no loss cancellation clause" enabling the insured to return the policy within 30 days of the date of sale without financial loss; be expected to pay benefits at least equal to such percentage of the premiums

collected as the Secretary finds reasonable (but not less than 75 percent for group policies and 60 percent for individual policies); and contain information that prospective purchasers would need to make an informed evaluation of the policy. In addition, the Secretary would make readily available to Medicare beneficiaries such information as will assist them in evaluation of Medi-Gap policies.

Policies issued in any State which has implemented a regulatory program that requires compliance with minimum standards that are equal to or higher than the Federal standards would be deemed to be certified.

Insurance companies offering policies which meet the minimum standards could include this information in the promotion of their policies.

Penalties would be provided for: Furnishing false or misleading information for the purpose of obtaining certification; misrepresentation as an agent of the Federal Government for the purpose of selling insurance to supplement Medicare; and knowingly selling insurance policies whose benefits (or the benefits of another policy) would be reduced or denied because they duplicate benefits under another policy held by the purchaser.

There would also be penalties for knowingly advertising, soliciting or offering mail order policies which are unapproved by the State Insurance Commissioners.

HEW-certified policies could be deemed to have been approved by a State if the State chooses to have them so treated. An effective date of January 1, 1982 is provided to give the State time to make any changes in their insurance review activities related to mail order policies that they deem appropriate.

Upon conviction of one of these four offenses, which would be classified as felonies, an individual would be subject to a fine of up to $25,000 or imprisonment for up to five years, or both.

The Committee's amendment would direct the Secretary, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, to conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of Medicare supplemental policies.

The study would address the States' effectiveness in: limiting marketing and agent abuse; assuring the dissemination of information to Medicare beneficiaries (and to other consumers that is necessary to permit informed choice; providing high value policies for all consumers; reducing the purchase of unnecessary duplicative coverage; and improving price competition.

The study and evaluation would also address the need for standards for accident and sickness policies that are sold to Medicare beneficiaries but that are not designed specifically to help them pay for expenses that are not covered by Medicare because of the program's deductibles, coinsurance amounts and other program limitations.

The Secretary would, no later than July 1, 1981, submit a report to the Congress on the results of the study and evaluation, accompanied by such recommendations as the Secretary finds warranted, including recommendations on the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of Medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

The Secretary would also submit to the Congress on January 1, 1982, and on each January 1 thereafter, an annual report evaluating the effectiveness of the certification procedure established under the committee amendment.

UP AMENDMENT NO. 860

(Purpose: To provide for voluntary certification of medicare supplemental health insurance policies)

Mr. LONG. Mr. President, on behalf of the Committee on Finance I submit to the desk a modification of the committee amendment and ask that the committee amendment be so modified. I do so modify the committee amendment.

The ACTING PRESIDENT pro tempore. The clerk will report the modification.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 860.

The ACTING PRESIDENT pro tempore. The amendment will be so modified.

The amendment is as follows:

At the end of title V add the following new section:

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

SEC. 508. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

"SEC. 1882. (a) The Secretary shall, no later than January 1, 1981, establish a procedure (to become effective no later than July 1, 1981) whereby medicare supplemental policies (as defined in subsection (g)) may be certified by the Secretary as meeting minimum standards with respect to adequacy of coverage, reasonableness of premium charge, and disclosure of information to the insured. Such procedure shall provide an opportunity for any insurer to submit any such policy to the Secretary for his examination and for his certification thereof as meeting the standards set forth in subsection (b). Such certification shall remain in effect, if the insurer files a statement with the Secretary no later than December 31 of each year stating that the policy continues to meet the standards set forth in subsection (b), and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) the required standards, he shall authorize the insurer to have printed on such policy an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State insurance commissioner with a list of all the policies which have received his certification, and shall encourage the commissioners to facilitate the sale of federally approved policies and discourage the sale of policies which fail to meet Federal minimum standards.

"(b) The Secretary shall not certify under this section any medicare supplemental policy unless he finds that such policy—

"(1) supplements both part A and part B of this title;

"(2) is written in simplified language, and in a form prescribed by the Secretary, which can be understood by purchasers;

"(3) does not limit or preclude liability under the policy for a period longer than six months because of a health condition existing before the policy is effective;

"(4) contains a prominently displayed 'no loss cancellation clause' enabling the insured to return the policy within 30 days of the date of sale without financial loss;

"(5) can be expected (as estimated in accordance with regulations of the Secretary) to return to policyholders in the form of aggregate benefits provided under the policy such percentage of the aggregate amount of premiums collected as the Secretary finds reasonable (taking into account all relevant underwriting and marketing considerations, and other considerations found by the Secretary to be relevant), except that such percentage may not be less than 75 percent with respect to group policies and 60 percent with respect to individual policies; and

"(6) contains a written statement for prospective purchasers of such information as the Secretary shall prescribe relating to (A) the policy's premium, coverage, renewability and coinsurance provisions, and (B) the identification of the insurer and its agents.

"(c) Any medicare supplemental policy issued in any State which has established under State law a regulatory program providing for the application of minimum standards with respect to such policies equal to or more stringent than the standards provided for under subsection (b) shall be deemed (for so long as the Secretary finds such State program continues to require compliance with such standards) to meet the standards set forth in subsection (b).

"(d) (1) Whoever knowingly or willingly makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards set forth in subsection (b) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting under the authority of or in association with any Federal agency for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Whoever knowingly sells a health insurance policy to a person eligible to participate in the program of health insurance established by this title, which policy substantially duplicates insurance protection already owned by that person (unless the policy being sold permits valid claims to be made against the policy without regard to similar claims made on previously owned policies), shall be fined not more than $25,000 or imprisoned not more than three years, or both.

"(4) Whoever knowingly advertises, solicits, or offers for sale by mail, or knowingly deposits in the mail or sends or delivers by mail, any medicare supplemental policy into any State in which such policy has not been approved by the State commissioner or superintendent of insurance shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both. For purposes of this paragraph any medicare supplemental policy certified by the Secretary under this section shall, at the option of the State, be deemed to be approved by the State commissioner or superintendent of insurance of such State.

"(e) The Secretary shall make readily available to all individuals entitled to benefits under this title (and to the extent feasible, individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relation-

ship of any such policies to benefits provided under this title.

"(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) providing high value policies for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, and (v) improving price competition.

"(B) Such study shall also address the need for standards or certification of health insurance policies sold to individuals eligible for benefits under this title, other than medicare supplemental policies.

"(C) The Secretary shall, no later than July 1, 1981, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

"(2) The Secretary shall submit to the Congress on January 1, 1982 and on each January 1, thereafter, an annual report evaluating the effectiveness of the certification procedure established under this section, and shall include in such reports an analysis of—

"(A) the impact of such procedure on the types, market share, value, and cost to persons entitled to benefits under this title of medicare supplemental policies which have been certified by the Secretary;

"(B) the need for any changes in the certification procedure to improve its administration or effectiveness; and

"(C) whether the certification program should be continued.

"(g) For purposes of this section, a medicare supplemental policy is a health insurance policy, offered by a private organization to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title.

"(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on January 1, 1982.

On page 33, amend the table of contents by adding at the end of title V the following item:

SEC. 508. VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, the Social Security Disability Amendments of 1979 is one of the most important pieces of legislation the Senate will consider during this Congress.

We have been occupied, and everyone else has been occupied, with all the talk about the so-called windfall profit tax, and the press will focus on that and no one will really focus on this legislation but, nevertheless, the bill before us will have a profound effect on the lives of disabled Americans, a more profound effect than any measure we will consider. It will help many handicapped individuals to move into the mainstream of our economic and social life, where they belong.

The number of beneficiaries under the social security disability insurance (DI) program nearly doubled between 1965 and 1975, and the costs rose more than fivefold from $1.6 to $8.4 billion during that period. Prompted by concern over such dramatic growth, the House Ways and Means Subcommittee on Social Security conducted a long and intensive study of the program which is the basis for some of the provisions in this bill.

Like so many programs which we have established to assist less fortunate citizens, the DI program has grown up piecemeal over the years, and the subcommittee found that the consequence of some of the changes made in the program has been to distort its intent. This bill is designed to correct two particular distortions in the DI program by limiting family benefits and reducing the number of dropout years allowed younger workers.

While the number of DI beneficiaries is evening out now, the annual costs have doubled to almost $16 billion since 1975 and are projected to redouble within 10 years to over $30 billion.

Although the 1977 Social Security Amendments helped to improve the financial status of the once nearly bankrupt disability trust fund, it is still necessary to make these changes in the program to insure its future viability and make it more equitable.

More importantly, the bill includes improvements in both the DI program and the supplemental security income (SSI) program. These improvements will insure a more effective and efficient administration of the two programs and will give disabled individuals the incentives and the ability to go back to work. There are also various provisions in the bill to improve the administration of the aid to families with dependent children (AFDC) and child support programs, as well as miscellaneous provisions relating to the Social Security Act.

FAMILY BENEFIT CAP

In the course of the study on the DI program, it was found that apparently some beneficiaries are receiving more in disability benefits than they earned when they were working. This occurs in cases where an individual is receiving his own benefits as well as benefits for his dependents. Under current law, total DI family benefits are limited to between 150 and 188 percent of the worker's primary insurance amount (PIA), that is, the amount he would have been entitled to if he did not have eligible dependents. According to the Social Security Administration, because of dependent benefits, 6 percent of DI recipients get benefits which exceed 100 percent of their average indexed monthly earnings (AIME), that is, their average lifetime earnings expressed in current dollars. Another 16 percent receive benefits which exceed 80 percent of their AIME.

In order to prevent individuals from receiving excessive benefits, the Ways and Means Subcommittee placed a limit on family benefits equal to the lower of 80 percent of AIME or 150 percent of PIA with no beneficiary to receive less than 100 percent of his primary benefit. The cap was imposed only on a prospective basis so that current recipients will not have their benefits reduced. The Finance Committee agreed to a slightly less stringent cap which is 85 percent of AIME or 160 percent of PIA.

REDUCTION IN DROPOUT YEARS

It was also discovered that the practice of allowing 5 years of low earnings to be excluded by all recipients for purposes of determining the amount of benefits was unfair to older workers who have paid into the system longer. As it now stands, an older worker may be able to exclude only 16 or 20 percent, say 5 of 30 years or 5 of 25 years, of his years of low earnings, while a younger worker may be excluding over 70 percent, say 5 of 7 years. When the disability program was first initiated, only workers aged 50 and over were eligible for benefits, so the 5-year dropout period more or less paralleled the dropout years allowed for retirees. Now that younger workers are eligible, it is inequitable to maintain the 5-year dropout rate across the board. Rather, it is necessary to change the exclusion so that all workers are allowed to exclude about the same percentage of years of low earnings. The House of Representatives provided for the following schedule of dropout years:

Age of recipients:	*Number of dropout years*
Under 27	0
27–31	1
32–36	2
37–41	3
42–46	4
47 and over	5

The Finance Committee decided to give every worker the privilege of excluding at least 1 year, so under the schedule in this bill every worker under 32 is allowed 1 dropout year.

I expressed my concerns about the impact on disabled individuals and their families of the family benefit cap and the reduction in dropout years when the Finance Committee deliberated this measure. I was assured that the Social Security Administration will monitor these changes carefully and report to the Congress on the impact they are having, and language was included in the bill for that purpose. While I continue to be concerned about the effect of these provisions, I am willing to support them as part of a balanced package which is designed to improve the DI program.

WORK INCENTIVES

It is my hope that the controversial provisions which have the effect of reducing disability benefits to some future recipients will not overshadow the work incentive provisions in the bill. I believe the incentive measures are the most im-

portant part of the legislation and am extremely pleased that many work incentives which I have supported for several years are included in the bill.

It is ironic that in a nation in which the work ethic is so vital we have created assistance programs which make it impossible for people to choose work over enforced idleness. This is especially true in the case of the handicapped. Society is finally beginning to realize that there are options to a life of confinement for disabled individuals and that with a little imagination and creative thought handicapped persons can lead active lives and find employment suitable to their skills.

Under current law, there is no middle ground for handicapped persons. One must be either completely dependent on public welfare or totally self-sufficient. There is no recognition that a handicapped individual can have severe disabilities, high monthly medical bills, and attendant care expenses, yet still have work potential. This bill, however, is a giant step forward in the effort to make people aware that disabled individuals can and do work, particularly if given the right kind of help.

Unfortunately, it is difficult for many disabled persons to hold low paying jobs and at the same time finance their heavy medical expenses. It is unrealistic to expect that a handicapped worker entering the labor force for the first time can demand an entry level position at a salary high enough to cover his attendant care and medical expenses. It is feasible, though, that this same person could eventually be promoted into a position where the salary would cover these expenses, but it must be done one step at a time. Until now, we have not given the handicapped access to the first step.

This bill meets the needs of those who have severe medical disabilities but who can still hold full-time or part-time employment. There are a number of excellent provisions in the bill which will both allow individuals to continue to receive cash, health benefits, and social services while working at low wages and make it easier to return to the disability rolls if a work attempt fails. It is through the knowledge that they can look forward to such benefits that they will have the courage and the ability to try to work. The work incentive provisions include:

Elimination of the 24-month waiting period for medicare benefits for those who again become disabled;

Extension of medicare coverage for DI beneficiaries for an additional 36 months;

Special cash benefits and medicaid and social services for individuals who lose eligibility for regular SSI benefits due to performance of substantial gainful activity;

Extension of earned income disregards to income earned from employment in sheltered workshops;

Deduction of impairment-related work expenses for purposes of determining if a person receiving SSI is engaging in substantial gainful activity; and

Automatic reentitlement to SSI benefits during a 24-month trial work period if the work attempt fails.

ADMINISTRATIVE CHANGES

I would also suggest that we have made some administrative changes in the DI and SSI programs which are very significant. It is through such administrative improvements that we will be able to insure the efficient and effective management of the programs and to protect the interests of the taxpayers and the beneficiaries alike.

Because these programs are completely federally funded, except in the case of voluntary State supplementation of SSI benefits, and because the most important but most illusory aspect of the program is the determination of disability, it is particularly important to put in place a mechanism for assuring that the program is being administered uniformly in all States. The provisions relating to HEW guidelines and Federal review of cases will assure the proper uniformity of decisions. The other provisions will improve the quality of the decisions being made and tighten up the process of appeal so that taxpayers and beneficiaries will be better served.

AFDC AND CHILD SUPPORT

The provisions concerning the AFDC and child support programs are important to the effort to improve the administration and management of those programs. As long as the AFDC program is funded through an open-ended Federal match, administrative safeguards, fraud control activities, and efforts to enhance child support collection are extremely important and should be vigorously supported.

The medicaid management information system has proven to be a great cost-saving device which is helping to eliminate error and fraud in the medicaid program, and applying the same approach to child support and AFDC programs should prove just as successful. It is time to stop giving lip service to efforts to control fraud, abuse and error in public assistance programs and to provide the means to accomplish it. It is also time to require able-bodied individuals who have no obligations which keep them from being able to work to do so. It is not fair to the working poor who struggle to make ends meet to ask them to pay taxes to allow someone else the luxury of leisure.

These provisions have been passed by the Senate before, and it is time to put them into action. We cannot afford to wait for another year or another attempt at long-range welfare reform before we move on these provisions.

MISCELLANEOUS PROVISIONS

Finally, Mr. President, there are a number of miscellaneous provisions that I would suggest are very important.

One would allow adjustment of DI benefits when overpayment occurs in cases where SSI benefits are delayed;

Another would extend the expiration date of the National Commission on Social Security.

Another would provide a more reasonable requirement for more timely social security tax deposits from State and local governments.

Another would require aliens to reside in the United States for 3 years before becoming eligible for SSI benefits; and

Another would authorize the Social Security Administration to participate in a demonstration project to determine how best to provide services needed by persons who are terminally ill.

There is a great deal of interest in this program and the Hospice program and the Hospice movement.

It would authorize HEW demonstration projects to improve the DI and SSI programs and particularly to test ways to stimulate work and improve the rehabilitation of disabled individuals.

It would close a loophole in the law which allows the avoidance of social security tax payments when an employer pays the employee's share of social security taxes in lieu of regular compensation.

This legislation, the Social Security Disability Amendments of 1979, represents a long-term effort to improve the two largest Federal disability programs and make them more equitable as well as more effective. The bill is not necessarily the ultimate answer to problems within the disability programs or to the problems of handicapped individuals. However, the benefit reductions, work incentives, and administrative improvements as a package provide a balanced approach to correcting many of those problems. I urge my colleagues to support the measure in the same spirit of compromise that those of us on the Finance Committee did.

Mr. President, I know there will be amendments offered by a number of Senators. It is my hope that those who may be listening would hurry over here and start offering those amendments, otherwise we will go to third reading and try to wrap this bill up in the next 5 or 10 minutes. If there are those Senators who are within earshot, in their offices or wherever, they may come over and start offering those amendments.

Mr. BAUCUS addressed the Chair.

Mr. DOLE. We have a customer. I yield the floor to the Senator from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. President, I simply wish to thank the Senator from Kansas, as well as the chairman of the committee for their work on this bill. I think it makes several very important improvements.

In addition, however, I am particularly pleased with an amendment I offered and which the committee graciously accepted in committee providing for a problem that affects our senior citizens to attempt to supplement their medicare coverage by purchasing supplemental health insurance policies.

The problem these days in this particular area is that medicare does not sufficiently cover senior citizens from all of their health ills. Particularly, it does not provide sufficient health insurance coverage for them, so they are prompted to purchase additional health insurance coverage.

In so doing, however, regrettably, there are several insurance companies that offer various kinds of policies which, in some cases, do not provide the benefits

that are represented to be supplied and in some cases are fraudulent. In many cases, senior citizens purchase 5, 6, 7, and in some cases, up to 20 or 30 supplemental health insurance policies, paying very high premiums and getting, in effect, very low benefits.

To help correct this problem, the amendment, which is a committee amendment adopted in this bill, essentially provides that health insurance companies may voluntarily submit their programs to the Department of Health, Education, and Welfare for certification; that is, the Department of HEW will look at these policies to determine whether or not they meet certain specified standards. If they do, those policies will be so certified.

The point here is to help encourage companies to be more responsible—I think most are; but too many are not—and also to discourage those companies from, to put it bluntly, ripping off senior citizens.

The program is voluntary. However, I think it moves in the right direction. It also provides for penalties against those insurance companies that do misrepresent the policies that they are providing for senior citizens.

Mr. President, I am pleased that the Senate is considering the social security disability amendments. This is broad legislation which fundamentally changes certain provisions of the disability insurance and supplemental security insurance program. Several features serve to strengthen and improve the disability program by creating incentives for beneficiaries to return to work.

The committee bill makes several improvements in medicare coverage for recipients. The legislation revises the conditions under which beneficiaries entitled to disability insurance become eligible for medicare. Present law operates as a strong work disincentive by requiring that recipients who return to work and then become disabled again, must wait 24 months before becoming reentitled to medicare coverage.

For many disabled individuals, this second waiting period discourages them from seeking work. H.R. 3236 responds to this deterrent by removing the requirement that an individual who becomes disabled a second time must wait another 24 months before receiving medicare benefits.

The Finance Committee held 2 days of hearings to consider the legislation. Witnesses testified that the provision of the law terminating medicare coverage when disability insurance benefits end deters disabled individuals from attempting employment. The committee bill removes this obstacle to employment by extending medicare coverage for an additional 36 months after cash benefits cease. The change applies to workers who are gainfully employed but not medically recovered.

These two provisions will ease the psychological burden posed by fear of abrupt loss of medicare coverage. They will encourage beneficiaries to seek gainful employment and make those efforts more attractive. Finally, they will eliminate inherent deficiencies in our current disability insurance program.

The committee agreed to add an amendment establishing a voluntary program for the certification of medicare supplemental insurance policies sold to the elderly. The amendment was originally introduced as a bill in June by myself and Senator CULVER. We were joined by 18 cosponsors and I wish to gratefully express my appreciation for their efforts on behalf of the legislation.

Hearings conducted by House and Senate Select Committees on Aging, newspaper reports, and Federal investigations have documented the existence of significant abuses in the sale of private supplemental health insurance to aged medicare beneficiaries.

These disclosures point to a number of problems. First, senior citizens are receiving confusing information about the extent of insurance coverage provided. Second, unethical sales practices are resulting in tragic situations where senior citizens are purchasing 2, 3, 4 and in one case as many of 30 duplicative and worthless policies in supplementation of medicare. Third, restrictive benefit clauses often make these policies financially unattractive or even worthless. Fourth, complex policy language makes it difficult for these citizens to make informed and intelligent choices about the type and scope of policies they wish to purchase.

The committee bill responds to these problems by establishing voluntary certification program of the so-called medigap policies. Under the procedure, companies could submit their policy to the Secretary of HEW for certification that the policy meets prescribed standards. The company could then display an emblem of certification on its policy.

Certification will provide a competitive advantage to companies marketing medigap policies. More important, it will assure medicare beneficiaries that the policy they purchase will provide protection against some health care expenses.

This provision also includes a number of penalty provisions which will discourage unethical sales agents from continuing to exploit senior citizens. Penalties would be provided for furnishing false or misleading information for the purpose of obtaining certification; for misrepresentation as an agent of the Federal Government for the purpose of selling medicare supplemental insurance; for deliberately selling duplicative insurance policies; and for advertising, soliciting or offering for sale by mail policies unapproved by the State insurance commissioners.

I want to convey to my colleagues the urgent need to address these medigap abuses without delay. Senior citizens cannot afford to wait. Detailed hearings, dating back to 1977, have shown that abuses are common and widespread. Older Americans are routinely being sold several unneeded duplicative, and therefore, essentially worthless policies. The house aging committee estimates the loss to senior citizens to be roughly $1 billion a year. Even the most ardent critics of this provision concede that there is a serious problem.

Some have maintained that a Federal voluntary certification program is not the answer. I believe, however, that the Federal Government has the responsibility to remedy medigap abuses. The Federal Government created this problem through the enactment of medicare and is, therefore, obligated to take positive steps to eliminate the problems.

Medicare is paying a smaller proportion of escalating health care costs, and more and more older Americans are looking to supplemental policies to cover the gaps in medicare. In 1967 medicare covered 46 percent of the elderly's medical bill. That figure rose to 50 percent in 1969. But in 1977, while the average bill paid by the elderly for medical care was $1,738, medicare absorbed only 38 percent of the bill.

The out-of-pocket expenditures for health care expenses for the elderly have risen an extraordinary 220 percent in the last decade. Motivated out of fear that they will not be able to absorb the expense of an illness, many senior citizens purchase medigap policies.

Some critics of this provision argue that the Federal Government is interfering with the insurance industry. I would maintain however that this legislation does not propose to control the insurance industry. It proposes a voluntary certification program to help consumers in identifying those medicare supplemental policies offered by private insurance companies which meet minimum standards of clarity and value. The voluntary certification standards set by the Secretary will reflect those established by the insurance industry itself. If policies have already met equal or more stringent standards set by the State in which they are issued, those policies would be considered certified by the Secretary. The provision emphatically does not interfere with each State's prerogative to regulate the sale of insurance.

The committee provision recognizes that more aggressive steps are necessary to promote education of the medigap consumer. Informed choices by consumers are vital in combating the documented abuses and confusion in the medicare supplemental field. The provision will facilitate informed choices in several ways.

First, the provision provides for the establishment of a nationwide, easily recognizable symbol issued by the Secretary of HEW to help individuals in identifying those policies that have met minimum standards.

Second, policies certified under the program would be required to contain a written statement of the policy's premiums, coverage, renewability and coinsurance features, and the insurance company and its agents.

Third, policies certified by the Secretary would have to be written in simplified language which can be understood by the purchaser.

Fourth, the bill directs the Secretary to make available to all medicare recipients information that will permit them to evaluate the value of supplementary policies.

We have an opportunity to provide immediate protection to our senior Americans who are being victimized by unethical sales practices and worthless policies. The provision is not a cost meas-

ure; it does not create another layer of bureaucracy since the mechanism to administer its provisions are in place in the Department of Health, Education and Welfare; and it does not interfere in each State's prerogative to regulate the sale of insurance.

The establishment of a voluntary program for medigap policies is a small price to pay. I commend my colleagues on the Finance Committee for adopting the amendment and for asking for expeditious consideration.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Florida (Mr. CHILES).

Mr. CHILES. Mr. President, I rise in support of the committee amendment to the bill before us which would establish a voluntary Federal program for certification of medicare supplemental health insurance policies which meet certain minimum standards.

When I chaired hearings, 18 months ago, to explore the extent to which older Americans were being preyed upon and abused by sellers of this "medigap" insurance, I was appalled.

The Committee on Aging was told by older Americans, State insurance commissioners, U.S. postal inspectors, local law enforcement authorities, and the Federal Trade Commission that medicare beneficiaries were literally being bilked out of millions of dollars every year by unscrupulous peddlers of medigap health insurance policies.

The committee found that gross instances of overselling worthless and duplicative insurance policies were a common occurrence. We found that some unscrupulous insurance agents would "roll over" insurance policies, coming back again and again to replace old policies with new ones, and receive a new, higher commission each time. The older consumer was left, however, with higher premiums for no insurance protection.

We found false claims for the benefits of certain policies a common theme. We also found a startling lack of information with which medicare beneficiaries could make informed choices.

There are good insurance policies in this market, valuable supplements to medicare's protection. But, as our hearings amply illustrated, there are also a lot of bad policies.

Early this year I introduced legislation. along with Senator DOLE and many of my Committee on Aging colleagues, to remedy some of these abuses. All of the thrusts of this legislation are fully incorporated in the amendment before the Senate, as well as some additional protections proposed by Senator BAUCUS and Senator CLAUDE PEPPER, the able chairman of the House Select Committee on Aging. I also support these provisions.

The chairman and members of the Senate Finance Committee are to be commended for the close and careful attention they have given to this legislation and for the effort they have put into seeing that it receives early consideration by the Senate.

I would also like to note that a substantially similar amendment has been favorably reported by the House Ways and Means Committee, so I am confident that final action will be taken soon.

This provision also recognizes and supports actions taken during the past year by a special medigap task force convened by the National Association of Insurance Commissioners. The national association, working with representatives of the health insurance industry, the Department of Health, Education, and Welfare, the Federal Trade Commission, and consumers, have put a good deal of time and effort into developing minimum standards for medigap insurance policies. The national association has now recommended that these standards be incorporated into State insurance law.

First, the amendment being considered today would require the Secretary to establish a voluntary program for certification of medicare supplemental health insurance policies which meet minimum standards set by the Secretary relating to policy benefits, premium charges, and information disclosure. Participation in the certification program would be purely voluntary on the part of insurance companies, but those policies which meet minimum standards could receive certification and advertise that fact. Strong, but fair, penalties would be provided for misuse or misrepresentation of the certification program.

Second, medigap insurance policies approved by and sold in States which require policy standards equal to or stronger than those proposed by this legislation would automatically receive certification. Since Senate and House hearings on medigap abuses, some States have begun actions to adopt new regulations on medigap sales. This provision would encourage additional State action and insure that policies meeting innovative standards developed by States would be eligible for Federal certification.

Third, a criminal penalty would be provided for any insurance seller who misrepresents an association with the Federal medicare program or any other Federal program of health insurance for the purpose of selling supplemental insurance, or who knowingly duplicates existing insurance coverage. These were two of the most common abuses reported to the committee and this provision will serve as a strong deterrent to such actions.

Penalties would also be provided for mail order insurers who sell policies in a State without prior approval of that State's insurance commissioner. A State may elect to have Federal certificaiton of these policies take the place of separate State approval.

Fourth, the Secretary would be required to provide information to all medicare beneficiaries on the types of medigap policies available for purchase, explaining their relationship to the medicare program. I was especially pleased to see that the Secretary has already begun such an information campaign with the publication and distribution of a medigap buyer's guide, developed jointly with the National Association of Insurance Commissioners.

Fifth, additional study of innovative State approaches to medigap insurance regulation would be required.

This amendment enjoys wide support among organizations representing older Americans and has been developed in consultation with State insurance commissioners and representatives of health insurance companies. It includes and supports recommendations made by the National Association of Insurance Commissioners and provides incentives for further innovative State action to correct medigap abuses.

The Department of Health, Education, and Welfare supports these provisions and is ready to begin implementing the certification program.

Our responsibility to fully carry out the provisions of the medicare program itself extends, I believe, to an assurance of the quality of suitable additional insurance protection against health costs not included within the protections offered by medicare. This amendment recognizes that responsibility and would take minimum steps to prevent continuation of the truly outrageous abuses which have been all too common.

I again commend Senator DOLE and the Finance Committee and its able chairman for the work that they have done in this medigap provision, because I think it is a welcome addition.

I urge my colleagues to adopt this amendment.

Mr. DOLE. Mr. President, I wish to commend the distinguished Senator from Florida (Mr. CHILES), who has probably been the leader in this effort, and also the Senator from Montana (Mr. BAUCUS).

Mr. President, the Senator from Kansas is pleased to indicate his support of this amendment requiring the development of a voluntary certification program for health insurance policies offered by private insurance companies to supplement medicare.

PLIGHT OF THE AGED

Without question, health care costs are a significant expense and of primary concern to those of our citizens who are elderly. At present, medicare pays only 44 percent of the total health care costs of the elderly. In addition to medicare deductibles and coinsurance, the elderly are required to pay for many types of services that are not reimbursable under the medicare program at this time. Examples of such services are out-patient drugs, eye glasses, hearing aids, dental care, and most importantly, certain types of long-term care.

In 1977, the average aged American on medicare had $1,745 in health expenses; of this, these individuals paid one-third ($576) through private sources—either private insurance or directly out-of-pocket. This amount continues to grow and is frightening for the elderly since many are on fixed budgets. The elderly are faced with serious dilemmas: Limited dollars versus escalating health care costs; the increasing risk of illness due to age; and the inability of medicare to finance all services necessary. Because of these dilemmas, many seek out supplementary health care insurance plans to cover the gaps in coverage (and financing) of health care

services. These policies are often referred to as "medigap" plans.

SUPPLEMENTARY HEALTH INSURANCE

In 1975, it was estimated that 63 percent of all Americans over 65 had some private health insurance coverage for hospital care alone and that 55 percent of all older Americans had some sort of private health insurance to cover physicians' services. Premiums for this type of insurance coverage cost the elderly approximately $1 billion last year.

This type of private insurance, referred to as medigap or medicare supplemental insurance, is designed to fill the gaps in the benefit structure of the medicare program and pay service rather than indemnity benefits. Additionally, many elderly also purchase indemnity policies which pay a certain number of dollars per day of hospitalization. The third type of insurance frequently purchased by the elderly is a limited policy which is frequently referred to as a dread disease policy. It pays benefits, often indemnity, only in the event the insured individual contracts a certain disease, which is in most instances, cancer.

Some of our elderly citizens hold 15, 20 or even more of these policies in an attempt to cover as many costs and services as possible. An estimated 23 percent of those who buy this private health insurance have some unnecessary duplication in coverage. Many other problems with these insurance plans have also been noted.

PROGRAMS WITH SUPPLEMENTARY HEALTH INSURANCE

In hearings held by the Special Committee on Aging of the U.S. Senate and in investigations by the Federal Trade Commission into the private health insurance market to supplement medicare, many unscrupulous and questionable practices came to light. In a document prepared by the staff of the Federal Trade Commission, the following description of some present insurance company practices can be found:

Unscrupulous agents selling door-to-door or mail order advertisements often mislead or frighten them (the elderly) into loading up on two or more policies or replacing policies each year—a practice known as "twisting".

When they file claims, many of them find that coverage they thought would fill all the gaps in medicare falls short of their expectations. Most supplemental policies would not pay for pre-existing conditions or the major gaps in medicare, such as nursing home care, excess provider charges, and prescription drugs.

WHERE GOVERNMENT HAD FAILED

It is additionally difficult for senior citizens to make informed and rational decisions about their need for private health insurance because they lack the appropriate amount and type of information about medicare. A great deal of blame for this problem must certainly be placed on the government which has done an inadequate job of informing elderly individuals fully about their medicare benefits. While many individuals may be aware that medicare does not cover everything, they are unsure of what the exact gaps are and how to most rationally fill them with private insurance.

UNITED EFFORT

The Senator from Kansas does not believe all the solutions will fall solely within the appropriate jurisdiction of the Federal Government, nor the insurance industry, nor of the State insurance commissioners. The responsibility for solving the problems with supplementary health insurance must be shared by us all.

The insurance industry itself has begun to address these problems, and they are to be commended for their efforts. Many State insurance commissioners are contributing their thoughts and expertise in helping solve the question of how to prevent abuses in the system while still providing and encouraging the availability of rational and responsive supplementary health insurance.

The legislation we propose today is built upon our belief in this need for a united front. Our legislation provides for a program of voluntary certification for these policies. The program would allow insurance companies to submit policies to the Secretary for certification that the policy meets prescribed standards relating to retention ratios, preexisting conditions, cancellation clauses, simplicity of policy language, and disclosure of information to potential purchasers. The legislation also contains penalty provisions for certain sales practices found to be misleading or abusive. One of the most important responsibilities given to the Federal Government.

In this legislation will be the development of understandable and complete information on the medicare program for the elderly. The bill contains other penalties which are also designed to assist in our effort to deter those few individuals and companies who have attempted to mislead the public.

We, each of us, have a responsibility to the elderly in our communities to protect them against the type of abusive practices that have come to light with respect to the sale of supplementary health insurance. The Senator from Kansas is hopeful that this legislation will assist us in these efforts.

UP AMENDMENT NO. 861

(Purpose: Relating to Federal review of State agency disability determinations)

Mr. LONG. Mr. President, on behalf of the Senator from Georgia (Mr. TALMADGE), I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) for the Senator from Georgia (Mr. TALMADGE) proposes an unprinted amendment numbered 861:

On page 55, line 80, insert "and" after "adopt,".

On page 55, line 24, strike out "process, and" and insert in lieu thereof a period.

On page 56, strike out lines 1 through 3.

On page 56, between lines 3 and 4, insert the following: "Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law.".

Mr. LONG. Mr. President, the Senator from Georgia is necessarily absent today. He asked that the amendment be offered. I will read his statement.

STATEMENT OF SENATOR TALMADGE

Mr. President, I do not advocate giving the Secretary of HEW or any other Secretary, the extremely broad authority which he is given in section 304(a)(2)(F). This subsection would give the Secretary the authority to establish any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determination.

This authority, Mr. President, is just too unlimited in scope and places too much regulatory power in the Secretary. It will certainly inflame the Federal-State relations in this area rather than improve them.

Mr. President, Wilbur J. Cohen, a distinguished former Secretary of HEW testified before the Finance Committee in strong opposition to the provision which my amendment would strike from the bill. He said he would not have wanted such authority when he was Secretary.

Many States object to this particular subsection feeling as I do that it gives the Secretary of HEW complete Federal authority over each and every decision that the State disability unit makes.

My amendment which is approved by the Administration would strike the provisions of subsection 304(a)(2)(F) and substitute language to clearly indicate that the Secretary could only issue regulations which are pursuant to law.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DOLE. Mr. President, I think it is a good amendment. We have no objection to the amendment.

Mr. LONG. Mr. President, I yield back the remainder of my time on the amendment.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

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

The amendment (UP No. 861) was agreed to.

UP AMENDMENT NO. 862

(Purpose: To eliminate the reduction in disability benefits on account of receipt of workmen's compensation)

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

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 862.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 106, after line 24 add the following new section:

REPEAL OF THE WORKMEN'S COMPENSATION OFFSET

SEC. (a) Title II of the Social Security Act is amended by repealing section 224 thereof.

(b) This amndment shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months beginning after the date of enactment of this Act.

Mr. WALLOP. Mr. President, a little over 2 years ago, I brought the case of the disabled worker receiving both social security disability insurance and workmen's compensation benefits before the Senate. Under section 224 of the Social Security Act, in effect since 1965, that worker's disability insurance benefits may be reduced so that the combination of social security disability benefits and State workmen's compensation benefits will not exceed 80 percent of his preinjury earnings. (The reduction in benefits is not made if there is a States' law or plan in effect which provides for the reduction of workmen's compensation payments where social security disability benefits are also payable. Twelve States have total or partial offset provisions.) Senators STEVENS, THURMOND, YOUNG, CRANSTON, and the late Hubert Humphrey joined me in offering an amendment to the Social Security Act amendments of 1977 to repeal section 224 of title II of the Social Security Act on grounds that it was unfair and inconsistent, difficult and costly to administer and distorted the purpose of the State workmen's compensation programs by requiring them to subsidize the Federal disability program, reasons I will elaborate upon in just a moment. The Senate agreed to the amendment which unfortunately did not survive the conference with the House.

Today, I call up an amendment identical to the one adopted by the Senate on November 4, 1977, my purpose in resurrecting this proposal is twofold: First, to focus attention once again upon this discriminatory provision of law in hopes of persuading a majority of my colleagues of the need to correct this inequity, and, second, to share with the Senate the Finance Committee's discussion and decisions with regard to the amendment which I offered in committee. In light of the committee's decision, I will not call for a vote on my amendment at this time. However, given the number of disabled workers in each of our States who are now or who might be affected by any change in the law, I would urge all of my colleagues to give this matter their attention and serious consideration.

My primary interest in seeking the repeal of section 224 of the Social Security Act is to correct the fundamental unfairness created by singling out disabled workers receiving workmen's compensation from the class of all disabled workers for a reduction in social security disability benefits. Disabled workers and their families under workmen's compensation are the only category or social security beneficiaries whose benefits are reduced because of the receipt of nonwork income; the Social Security Act does not require a similar reduction in disability benefits from other Federal or public disability programs. A worker could become disabled and receive payments under the Civil Service Retirement Act, the Railroad Retirement Act Annuity, the Veterans' Administration disability benefits program, the black lung program, and nearly 60 other public disability benefits programs without losing any of his social security disability benefits. Nor do disabled workers who receive lump sum or monthly payments under private disability insurance policies or receive damages in private tort actions have their social security benefits reduced only those workers who through no choice of their own depend on workmen's compensation are subject to a reduction in social security benefits.

In my State and in every other State employees contribute to workmen's compensation funds. They do so to provide a fair protection to cover injured workmen. In most cases the covered workman has no right to civil damages. Compensation awards are based on a contract agreement, if you will, and are paid according to a schedule in exchange for which the worker gives up the right to recover additional damages in court. The workmen's compensation funds were set up solely for the benefit of injured and disabled working men and women and not to create actuarial soundness in the social security trust fund. Their employer's payments are no different from the payments of employers under private contract. Their injuries are no less painful. Their needs are no less real. Yet they are singled out amongst all Americans for special treatment. A treatment which is patently unfair; an injustice which Congress alone has the power to right. This punitive and discriminatory treatment of one category of disabled workers is shamefully unfair and should not be allowed to continue.

While the questions of equity and fairness are central to the argument in support of this amendment, there are administrative reasons as well why the existing offset provision should be repealed. The offset is applicable to only a very small proportion of disability recipients, some 56,000 in 1978, or between 2 and 3 percent of all disabled workers. Yet, the provision generally requires a disproportionate application of administrative resources at great cost. Calculations made in 1977 by the Social Security Administration estimated that if the workmen's compensation provision was eliminated effective with fiscal year 1978, 500 man-years would be eliminated over a 5-year period ending with fiscal year 1982. An additional $7.8 million in administrative costs would be saved on an annual basis. The Social Security Administration advises that savings of the same magnitude could be expected if section 224 were repealed today.

Clearly, much more time and money is expended in administering this section than would seem to be warranted by the small number of beneficiaries subject to the provision. In addition, elimination of the workmen's compensation offset would simplify the social security program. Processing these claims now requires reference to State workmen's compensation laws which, of course, vary widely. Often, social security field offices must contact employers, workmen's compensation agencies, insurance companies, attorneys, and claimants before workmen's compensation offset determinations can be made. A large amount of correspondence, protracted interview time, and program center review contribute to the high cost of handling each case. Also, each case must be handled manually, both initially and when workmen's compensation benefits are increased and when offset redeterminations are made every 3 years. Obtaining the necessary offset information often results in long delays in getting social security disability benefits to entitled individuals and their families.

These arguments are basically the same as those recently presented to the Finance Committee in support of my amendment. There was general agreement in committee that section 224 of the Social Security Act arbitrarily distinguishes between workmen's compensation and other disability payments programs. However, the committee did not agree to the repeal of this discriminatory provision, as I was proposing as the means of doing equity, essentially, it was argued that such action would be expensive to the trust funds (according to administration estimates, the increased outlays to the disability trust fund would increase from $155 million in fiscal year 1981 to $170 million in fiscal year 1984), moreover, the argument was made that the repeal of section 224 would run counter to the philosophy embodied in the family cap provision of H.R. 3236 which seeks to prevent benefits paid to the disabled worker from exceeding predisability income.

Rejecting my original suggestion to simply repeal section 224, the committee asked staff to prepare a proposal which would effect a coordination between the social security disability insurance program and other public disability benefits programs so that combined benefits paid by these public programs would not exceed the worker's predisability earnings. The staff proposal was subsequently abandoned in favor of requesting the General Accounting Office to expand an ongoing study of the relationship between the social security and workers' compensation programs under secction 224 to include a study of the prevalence of multiple receipt of disability benefits from disability and other programs, including workmen's compensation, as well as various approaches to better coordinate the overall benefits provided to an individual to preclude benefits from exceeding predisability earnings.

On the strength of the committee's express commitment to hold hearings on the GAO study next year, and to take appropriate legislative actions, I did not insist on my amendment in committee and likewise will not insist upon a vote at this time. I believe we may now be making progress toward the desired end—an end in the unfairness in the current law as it applies to disabled workers receiving workmen's compensa-

tion. However, should it become necessary, I shall be back before the Senate, undaunted, with my original proposal.

I think, Mr. President, that what we set out to do in the committee, while a reasonable response to the problems I have set forth, is fraught with political peril. Almost immediately following the committee's charge to staff to formulate a proposal to coordinate all public disability benefits, the interest groups were in action urging a laissez-faire with regard to their disability benefits.

If that is still the case when the committee considers GAO's study on this matter, and if the Congress of the United States is unwilling to proceed with a proposal to treat all public disability benefits alike in the face of an intense lobbying effort, then it must do what I am again today suggesting which is provide equity and fairness by repealing section 224 of the act. I cannot believe we will allow or tolerate this situation to go on much longer because, frankly, it is totally unfair to workers who are receiving workers' compensation to have those disability benefits, which they pay for—I will admit, the law says the employer pays them, but make no mistake about it, the employee has that as part of his compensation—reduced as required by present law.

It was a constituent of mine that brought this to my attention in the campaign. He was a worker who had 27 years without a time-loss accident. At the end of that 27 years, he fell off a high wall and broke a leg and was thereafter disabled. He got a lump-sum benefit from the State of Wyoming workmen's compensation fund in the amount of $7,000 for the total loss of use of a leg and because he would be permanently crippled for life. Then he found his disability benefits were reduced by the amount of that $7,000 while he was trying to fund children in college and a number of other things.

It is totally and disgracefully unfair to these workers to have it that way while every other disabled worker is more favorably treated by the law. I will persist in my efforts to restore equity to the system so that all disabled workers are treated the same.

I shall respond to the chairman and the ranking member if they have any comment and then withdraw the amendment.

Mr. LONG. Mr. President, there is no doubt that the Senator's position has a great deal of logic to recommend it. It seems to me that the discrimination should be removed. but I think that, basically, it should be removed by simply not providing double or triple benefits for disability. By doing so, we would help to balance the budget and make funds available to reduce taxes, reduce spending, or provide for national defense or some other essential purpose.

There is great potential for caring for social welfare needs by simply eliminating areas where unnecessary spending is occurring. That is the best answer. If we cannot do that, the second best answer is to do as the Senator is suggesting, to treat all people the same and say that regardless of what the source of disability income may be, if a person is insured under the programs, he may draw money under all of them.

I cannot quarrel with the logic of the Senator's statement. I would only say that, as a practical matter, we ought to be moving in what I think is the best direction, to say that we are not going to be spending Federal funds to try to provide a second or third level of benefits for something that is covered by more than one program. In other words, we ought to try to eliminate overlap rather than increase overlap.

I hope the Senator will pursue the approach of trying to reduce the overlap. There are people who have a vested interest in the present situation, people who are on more than one program who get benefits from two or more different programs. Sometimes it is private insurance, sometimes a State program, sometimes a Federal program, or sometimes it is two Federal programs. To make the best use of taxpayers' resources, we should try to provide only one benefit and, hopefully, one benefit that will be adequate, rather than provide two or three different benefits for the same person.

I appreciate the Senator's bringing this matter up and I hope that in due course we can give it the attention it deserves. I guess what we shall have to do is have certain grandfather rights with regard to those already drawing duplicate benefits and, as those phase out, say that, in the future, this situation will not occur.

Mr. WALLOP. I thank the Senator and I agree with him that that is the appropriate way to go. One way or another, we are just going to have to treat people equally. I am certain that, next year, we shall get into this when the GAO study is out.

Mr. DOLE. Will the Senator from Wyoming yield?

Mr. WALLOP. I am happy to yield.

Mr. DOLE. Mr. President, I associate myself with the remarks of the distinguished Senator from Louisiana, the chairman of the committee. I appreciate the position of the Senator from Wyoming. I think he has the attention of not only the committee but a number of those who might be impacted. We had a productive discussion on the issue in the Finance Committee.

We concluded that it is unfair to treat those who receive workers' compensation benefits any differently from those who receive other public disability benefits. However, we felt we should be moving in the direction of limiting benefits under all such programs to some reasonable percentage of predisability earnings.

It has been discussed that often, when the Congress passes overlapping programs, they individually provide reasonable aid but collectively overcompensate people who are not working and, in some instances, provide disincentives for individuals to become rehabilitated and to return to work. When that happens, we should make adjustments to see that we do not provide more in disability benefits to individuals than they earned when working.

It is the intention of the Finance Committee to look very carefully at ways to correct this problem, but there are too many questions to be answered before we move in that direction. I know the Senator from Wisconsin, the chairman of the Social Security Subcommittee, will hold hearings on this issue as soon as possible after the new year.

Some programs, such as veterans compensation and possibly others, should be exempted from efforts to limit benefits since they compensate individuals for more than just lost wages. I am sure that we will move cautiously but expeditiously next year to make the proper adjustments in the public disability programs and to coordinate them adequately.

If adjustments are made, it will be because of the untiring efforts of the Senator from Wyoming.

Mr. THURMOND. Mr. President, will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. THURMOND. During the consideration of this bill by the Finance Committee, was the area of veterans' benefits, that is compensation and pension, considered? And if so, what is the committee's position on veterans' benefits?

Mr. DOLE. They were mentioned, and I pointed out possible problems with limiting benefits under these programs. That is one reason why the committee is going to hold hearings on this matter early next year.

Mr. THURMOND. I thank the Senator, and would add that before any measure affecting veterans benefits or entitlements is brought to the Senate floor, I would urge the Finance Committee to consider carefully our Nation's historical commitment to veterans, especially those receiving compensation due to an injury incurred while in service to this country. Perhaps it would be wise to receive the input of the various veterans' organizations and the Veterans' Administration before the committee reports such legislation.

Mr. WALLOP. Mr. President, I will, for the time being at least, rest my case. I withdraw my amendment.

I thank the Senator from Kansas and the Senator from Louisiana for their understanding of this matter. It concerns me greatly. I do hope we move in the responsible direction.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 863

(Purpose: To eliminate child benefits for children 18 or older who attend postsecondary schools)

Mr. WALLOP. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an unprinted amendment numbered 863.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of title V add the following new section:

ELIMINATION OF CHILD'S INSURANCE BENEFITS IN THE CASE OF CHILDREN AGE 18 THROUGH 21 WHO ATTEND POSTSECONDARY SCHOOLS

SEC. 508. (a)(1) Section 202(d) of the Social Security Act is amended in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(i), (6)(A)(i), (6)(D)(i), (6)(E)(i), (7)(A), (7)(B), and (7)(D), by striking out "full-time student" each place it appears and inserting in lieu thereof in each instance "full-time elementary or secondary school student".

(2)(A) Section 202(d) of such Act is further amended in paragraphs (7)(A), (7)(B), and (7)(D), by striking out "educational institution" each place it appears and inserting in lieu thereof in each instance "elementary or secondary school".

(B) Section 202(d)(7)(A) of such Act is further amended by striking out "institutions involved" and inserting in lieu thereof "schools involved".

(3) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C)(i) An 'elementary or secondary school' is a day or residential school that provides elementary or secondary education, respectively, as determined under the law of the State or other jurisdiction in which it is located.

"(ii) For the purpose of determining whether a child is a 'full-time elementary or secondary school student' or 'intends to continue to be in full-time attendance at an elementary or secondary school', within the meaning of this subsection, there shall be disregarded any education provided, or to be provided, beyond grade 12.".

(4) Section 202(d)(7)(D) of such Act is further amended by striking out "degree from a four-year college or university" and inserting in lieu thereof "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))".

(b) The amendments made by subsection (a) shall apply with respect to child's insurance benefits for months beginning with September 1982 except in the case of a child who is entitled to child's insurance benefits by reason of his full-time attendance at an educational institution for September 1982 whose benefits shall remain payable under section 202(d) of the Social Security Act as in effect prior to its amendment by this section.

Mr. DOLE. Will the Senator yield for a unanimous-consent request?

Mr. WALLOP. I am happy to yield to the Senator from Kansas for that purpose.

Mr. DOLE. Mr. President, I ask unanimous consent that Sheila Burke of the Committee on Finance be granted privilege of the floor during consideration of H.R. 3236.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, since 1965, the social security system has been paying benefits to unmarried individuals, ages 18 through 21, who are full-time students in postsecondary educational programs. The children's benefits program—which pays benefits to children of retired, disabled, and deceased workers—was created at a time when there was a shortage of Federal higher education aid available.

Mr. President, as an aside, I would be very interested to see if those college students aged 18 to 21 would be willing to identify themselves as children, and be called such.

At any rate, at the time that was created, there was a shortage of Federal higher education aid available.

Today, that shortage no longer exists; there are now six major postsecondary educational aid programs administered by the Office of Education of HEW which can provide financial assistance to college students who need it.

Over the course of this year, there has been renewed interest in eliminating the social security postsecondary benefits program as a responsible means for shifting responsibility for providing educational assistance from the social security system to the Office of Education and for achieving substantial savings to the trust funds without adding significantly to the outlay of general revenues for educational aid for college students. The President's 1980 budget assumed the enactment of legislation to phase out the postsecondary student benefits program over a 4-year period. HEW developed implementing legislation which was circulated as part of a draft bill encompassing many other changes in the Social Security Act.

On February 8, 1979, Congressman SAM GIBBONS, chairman of the House Ways and Means Subcommittee on Oversight, convened a hearing to review the social security student benefits program to determine whether the program was still necessary. Witnesses representing GAO, the Social Security Administration, the Office of Education, and the chamber of commerce testified in support of discontinuing the social security postsecondary education benefit program. On August 30, 1979, the Comptroller General submitted a report to Congress recommending the discontinuance of postsecondary student benefits (report No. HRD-79-108 entitled "Social Security Student Benefits for Postsecondary Students Should Be Discontinued"). Let me take a few minutes to read from section 5 of that report the reasons supporting their recommendation:

The federal government has an interest in assisting people to learn so that they may earn a good living.

It also has an interest in assisting people to prepare for times when loss of earnings works hardship upon former earners and their families.

The first interest—education—seeks to develop human resources. It is the primary concern of the Office of Education.

The second interest—insurance—seeks to secure human resources. It is the primary concern of the Social Security Administration.

Neither interest should stand in opposition to the other. But, as linked in Social Security's Student Benefit program, they do. And the effects are great waste and inequity.

In school year 1977-78, student benefits cost the trust funds, and thus contributors to the trust funds, $1.5 billion. That figure included payments made in excess of reported school costs, payments made where no school costs were reported, payments made without regard to academic progress—or its lack—duplicate payments, and payments made to ineligible persons. Using social security estimates, we calculate that by 1985 student benefits will be costing the trust funds $2.5 billion a year.

The student benefit program contributes to waste of dollars from other federal programs in the form of excess payments and efforts made to detect and prevent excess payments. (One example is evident in the basic grant program, where a better verification procedure could have saved $8.2 million in 1 year.) This waste is at the expense of all taxpayers. Also, other federal programs are vulnerable to—and may now be experiencing—further waste of the same kind.

The student benefit program works inequities upon non-student beneficiaries—those persons, young and old—for whom federal assistance in obtaining some minimum standard of food, shelter, and health care is supposed to be social security's basic purpose. If student benefits were discontinued, social security estimates that an additional $440 million a year would go to nonstudent beneficiaries—at no additional cost to the trust funds.

From the standpoint of a just dispensation of federal education aid, the student benefit program works inequities upon the children of many qualified contributors. Some receive less money than would appear just under a needs-based evaluation, because they come from larger or poorer families. Others, because they choose to marry or attend school part time, get no money whatsoever.

These conditions are ongoing in a time when social security shows no significant surpluses, when there are fewer contributors to bear the costs of each beneficiary, when taxes paid by contributors have been raised dramatically, and when there are real doubts that the system will be able to meet obligations without still further increases.

In the case of postsecondary students, OE says, and we concur, that its programs have the capability of serving the vast majority of those persons who are now, and would be in the future, served by student benefits. Further, we believe OE could provide this service at less cost and with greater equity. There would be some former postsecondary student beneficiaries who would get less money. But since so many student beneficiaries are receiving excess benefits, we do not believe a dollar-for-dollar replacement of benefits by OE is necessary.

It is the purpose of government to provide the best service at the lowest possible cost. Discontinuance of social security's student benefits to postsecondary students—thus requiring those who would have been served by that program to look to OE for most of their supplementary education aid—would serve that purpose well. Specifically, discontinuance could:

1. Save the trust funds $1.390 billion.

2. Save the taxpayers—after subtracting the new expense to the office of education—about $1.102 billion.

3. Provide education aid on a far more equitable basis to those persons who need such assistance.

4. Provide more assurance that the insurance system into which 9 of every 10 American workers pay will be capable of providing that service for which it was created, now and in the future.

Mr. President, the amendment I am offering essentially carries out the well-reasoned and entirely reasonable recommendation made by GAO. Effective in October 1982, the Social Security Act, which today pays benefits to full-time students attending institutions of higher education (or other postsecondary education programs), will cease to exist

except for individuals who are entitled to those benefits for September 1982.

The need for a postponed effective date was expressed by critics of the administration proposal which was basically the same as my amendment, except that it would have phased benefits out over 4 years, thus terminating benefits for any children who reached 18 after August 1979, even if they were already on the rolls. Claims were made that student benefits would be terminated without adequate notice to many students who had been relying upon receiving them. In response to these criticisms, my amendment phases benefits out over a 6-year period. The 2-year delay in the effective date will insure a fair and orderly transition from the old law for students, Congress, the Social Security Administration, the Office of Education and the new Department of Education:

First, students, aged 16 and under, will have 2 years to make alternative plans for financing their college or other postsecondary education programs. For those who oppose the change in the law on the grounds that it is something of a breach of contract between the social security system and its contributors, this 2-year notice period will mitigate, if not eliminate, any damages a student might have, since there is ample time for the student to seek other educational aid. The Social Security Administration estimates that 400,000 individuals will be affected in fiscal year 1983 by this amendment. It is for these people that 2-year notice is provided.

Second, Congress, in conjunction with the Office of Education and the new Department of Education, has 2 years notice to review existing education grant and loan program both to assure their adequacy and sufficiency to meet the needs of students who would have been entitled under the old law to social security student benefits. There will be enough time for Congress to increase the authorizations and appropriations for these programs to accommodate new students and/or increased benefits to students who were receiving both social security and other assistance through the Office of Education, if such increases are needed. While no provision is made by this amendment for increased funding of the Office of Education programs, it is expected that the committees with jurisdiction over these programs will examine their funding needs in light of the change in the Social Security Act made by this amendment.

In addition to giving 2 years notice of the change in the law, subsection (b) of the amendment protects against the disruption of benefits to individuals who are entitled to children's insurance benefits for September 1982 by reason of their full-time attendance at an educational institution. This means that individuals currently on the rolls will continue receiving children's benefits under current law at least through September 1982, and then, if they are entitled to benefits for that month, for as long as they would be entitled under current law. Individuals who are not now entitled to children's benefits but who, through the death, disability or retirement of a parent, are entitled to benefits for September 1982 shall also continue to receive benefits as if the law had not been amended. This amendment has no effect whatsoever on children's benefits for primary and high school students.

Because of the delayed effective date of the amendment, savings to the social security trust funds will not be realized until fiscal year 1983. According to estimates prepared by the Social Security Administration, savings to the old-age, survivors and disability insurance trust funds will be substantial:

Fiscal year 1983: $193 million.
Fiscal year 1984: $761 million.
Fiscal year 1985: $1.312 billion.
Fiscal year 1986: $1.727 billion.

Preliminary estimates prepared by staff of the Congressional Budget Office are roughly the same:

Fiscal year 1983: $193 million.
Fiscal year 1984: $754 million.
Fiscal year 1985: $1.4 billion.

There is some discrepanc between Congressional Budget Office and Office of Education preliminary estimates on the additional costs to the basic educational opportunity grant program resulting from the discontinuance of the social security student benefits program. The CBO preliminary estimates based upon as estimated 56,000 new basic grant recipients, are as follows:

Fiscal year 1983: $15 million.
Fiscal year 1984: $2[illegible] million.
Fiscal year 1985: $43 million.

The Office of Education has a 1-year estimate for academic year 1983–84 in which it anticipates an increase of 61,000 recipients, at a cost of $65 million to the BEOG program.

A more precise impact analysis can be formulated in the 2 years before the amendment takes effect and changes can be made in the authorization and/or appropriation levels for the education grant programs to accommodate the additional recipients.

Notwithstanding the gap in these projections (which is attributable to a difference in assumptions used by these offices) the fact remains that savings to the trust funds will far exceed additional outlays of general revenues for financial aid to higher education. According to these CBO preliminary estimates, a net savings to the Federal Government at approximately 2 billion per year beginning with fiscal year 1987.

Director of the Office of Education, Bureau of Student Financial Assistance, Peter Voigt, in testimony presented in February before the Ways and Means Subcommittee on Oversight on the Administration's proposal, indicated that the existing student aid programs would be adequate to meet the needs of almost all of the students who would be affected by the phase out of social security benefits. It was his opinion that all students affected by the phase out would be able to receive assistance through OE's student aid programs in the form of either grants, work, or loans. These programs include the basic educational opportunity grant program (BEOG), the guaranteed student loan program, the college work study program, the national direct student loan program, the State student incentive grant program and the newly Middle Income Student Assistance Act (MISAA) which went into effect for the current academic year. The BEOG program is the foundation for all Federal postsecondary student asistance. It is an entitlement program and awards are made to students based upon financial need. The maximum award under this program is $1,800. MISAA greatly expanded eligibility for basic grants under the BEOG's program by decreasing the percentage of a family's discretionary income from which they are expected to contribute to the student's postsecondary education. This makes it possible for a student from a family of four with $25,000 parental income to receive a basic grant. The National direct student loan, college work study and supplemental educational opportunity grant programs, the "campus-based" programs, are allocated to institutions of higher learning which then distribute the funds to needy students. The guaranteed student loan program allows undergraduate students, regardless of income, to borrow up to $2,500 per year which must be repaid upon graduation. The Federal Government pays the interest on the loans while the student is in postsecondary education.

There is a significant difference—one which is material to my amendment—between these aid programs and the social security postsecondary student benefits program. Unlike the OE programs which are based on need, social security student benefits are paid on the basis of a worker's contributions into the trust funds: The higher a worker's income, the higher [illegible]'s contribution to the trust fund and the higher the benefits to his dependent child attending college. The converse is similarly true. The effect of this benefit formula is to pay higher benefits to students from families with higher incomes and lower benefits to students in families with lower incomes. This is contrary both to logic and our sense of fundamental fairness and is an important reason why the amendment I am proposing should be adopted.

Mr. President, my time is limited under the time agreement. I will bring my remarks to a conclusion at this time so that I may respond to any questions on the amendment. This amendment will move from the social security system—funded by contributions from workers—and into the Office of Education—paid for out of the Treasury—financial aid programs for students enrolled in postsecondary education programs.

The savings to the trust fund will be significant—nearly $1.4 billion in fiscal year 1985. Savings of this magnitude will substantially improve the financial condition of the trust funds and could be put to good use, such as rolling back social security taxes for all Americans.

The total savings to the Federal Government, taking into consideration the increases in the student benefit pro-

grams, should be approximately $2 billion per year by fiscal year 1987. The beauty of the proposal is that it will do tremendous good for the social security system without prejudicing students who will have merely to look to the new Department of Education for education aid.

Mr. President, I reserve the remainder of my time. I wish, if we can get enough Senators in the Chamber, to order the yeas and nays on this amendment at some time, but I reserve the remainder of my time.

Mr. LONG. Does the Senator desire to ask for yeas and nays?

Mr. WALLOP. Mr. President, I call for the yeas and nays.

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, the committee will be looking at social security financing early next year when we seek to see whether there are ways to modify the financing of social security benefits to avoid the very large increase in social security taxes scheduled to go into effect in January 1981.

One thing that we should look at is the possible cost savings in the student program as suggested by the Senator from Wyoming. This program should be considered and it should be carefuly studied by the committee.

As of now, however, we have had no hearings on this subject and this amendment could affect the lives of a great number of students and their families. Therefore, Mr. President, in my judgment it is premature to enact the amendment at this time.

It may very well be that after we have had a chance to study it and go into the various ramifications of the proposal and the other considerations that are involved we might want to move in this area.

But one thing that has not been adequately considered is the need of setting up some other way of providing for the education of children or young people which would be needed in the event that the Wallop amendment were agreed to. That might be an area where other committees should act, perhaps the Committee on Human Resources or the Appropriations Committee; perhaps it would be the Committee on Finance. But I think that it would not be an area where the Finance Committee would want to act alone. It would be an area where other committees would like to be heard and to offer the Senate the benefit of the advice of those committees.

So, Mr. President, I believe that the amendment should not be agreed to at this time, even though I applaud the Senator for raising the subject, and I would encourage him to continue his interest in this matter until it has had further consideration.

The PRESIDING OFFICER. Who yields time to the Senator from Kansas?

Mr. LONG. I yield the Senator such time as he requires.

Mr. DOLE. Mr. President, I appreciate the position of the Senator from Wyoming and certainly feel this is an issue which must be addressed by the Congress in the near future. We need to look carefully at all the areas in the social security program which might warrant changes because they divert funds from the basic purpose of the program, that is to provide some minimum family income in the event of the taxpayer's retirement, disability, or death.

It is my understanding that the administration, which proposed the elimination of student benefits several months ago, is opposed to this amendment—not on the basis of substance, but on the basis of the vehicle. The Department of HEW still supports the concept but believes the issue is so important and affects so many families that it should have hearings in committee and go through the full legislative process. I believe that request is reasonable.

Furthermore, there is some concern that by attaching this amendment to the disability bill we might jeopardize the bill itself. I think this bill is far too important to take that chance so I will have to oppose the amendment. I would hope that the Senator from Wyoming would agree to let the Finance Committee take up this issue next year because it certainly deserves our full attention.

Mr. President, I again commend the Senator from Wyoming, although I cannot support what he wants to do because, as the chairman has indicated, we have had no hearings. But it is an issue which must be addressed. We are asked from time to time to try to tighten up programs and to save money, and we find that more difficult, very honestly, than we do expanding programs and spending more money. It is easier to say yes if you are in politics than it is to say no. But I think the taxpayers have a right, as the Senator from Wyoming suggested, that at least we take a hard look at some of these programs and we look at all the areas of social security programs which might warrant changes because they divert funds from the basic purpose of the program which is to provide some minimum family income in the event of the taxpayer's retirement, disability, or death.

It is my understanding that the administration, which proposed the elimination of student benefits several months ago, is opposed to this amendment not only on the basis of substance but on the basis of the vehicle. The Department of HEW still supports the concept but believes it should have hearings in the committee and go through the full legislative process, and I believe that request is reasonable. But if in fact that does happen it would save substantial sums of money, as has been pointed out, $193 million in fiscal 1983, $750 million in fiscal 1984, and $1.4 billion in fiscal 1985, so it is a substantial amendment.

Some concern I think has been expressed that by attaching the amendment to this bill it might jeopardize the bill itself. As I indicated in my opening statement, though this bill will receive very little attention from really anyone it probably is one of the most important pieces of legislation to come before Congress this year. It deals with the handicapped and disabled and, therefore, does not stimulate a great deal of interest. It is not something that will catch the eye of the media but will certainly catch the eye and be very helpful to thousands and thousands of disabled Americans.

I know that the yeas and nays have been ordered, and I assume the Senator from Wyoming will want a vote. But I think it is fair to say it may not be successful, and if it is not we will have the hearings and hopefully we can work out some compromise.

Mr. WALLOP. Mr. President, how much time does the Senator from Wyoming have?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. WALLOP. Mr. President, I wish to respond to some of the statements from the chairman and the ranking minority member because by any standard of Senate behavior they have been more than kind to the Senator from Wyoming in listening to his concern.

When they say it is premature to pass this, I wonder if they fully realize that by delaying this a year, we put off by a year the substantial savings in the billions of dollars to the OASDI trust fund even though the amendment does not affect any students that are presently receiving the benefits or who are entitled to benefits for September 1982.

I just do not understand how that puts us in the position of being responsible.

The Senator from Louisiana said that we had not held hearings. True, the Senate has not held hearings, but there were hearings held in the House of Representatives last February.

By passing this now we will be putting on notice all those who will be affected 2 years down the pike that they should begin looking at planning for their higher education. The delay of a year is expensive. If there is a disaster attendant to it, Congress can always go back and reinstate the benefits that are taken out by this amendment because there will be no change in the immediate outyear benefits.

But if we agree to this amendment now, we can go on and get these savings early.

I for one do not see how anyone can lay claim to fiscal responsibility and then say we should put this proposal off for another year.

The Senator from Louisiana says the other committees want to take a look to see if other programs exist for the students. I enumerated the six major Office of Education programs that exist today to provide financial aid. In the hearings in the House of Representatives, the administration testified that these programs are adequate to meet the needs of the students who would be affected by this proposal.

The funding necessary to provide these benefits will be minimal compared to the savings that will accrue to the trust funds.

How much longer do we sit here in the Chamber and complain about the taxes that we raised last year, complain about trying to find some means to roll back that social security tax increase that we laid on the taxpayer, complain about the security of the trust fund, its viability

from an actuarial standpoint, and then do nothing about it when we have the opportunity right here and now to do something about it, to be accountable to the taxpayers, at the same time we are being fair to students by giving them 2 years notice and warning?

I mentioned earlier that the program within SSA absolutely confuses the roles of the Office of Education that now exists within HEW, the new Department of Education, and the social security trust fund.

I understand the Senator from Kansas says the administration now opposes this, having supported it earlier, and opposes it not on the basis of logic but on the basis of the coming year.

I think the coming year is a political year, and people are not going to want to have to account to students and their families receiving student benefits. But what happens to all the people who have to pay these taxes? How can we possibly expect them to view this Congress or any other one as accountable when we will not accept a proposal that disadvantages no one and takes care of everybody who has to contribute to this fund?

When are we going to be accountable to the people who pay? When is it responsible not to put off for another year biting a difficult bullet?

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, so far as the Senator from Louisiana is concerned I am ready to vote if the Senator is ready to vote, and we will just yield back the remainder of our time.

Mr. BELLMON. Will the Senator yield to me for a unanimous-consent request?

Mr. PERCY. I am happy to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senate is not in order.

Mr. BELLMON. Mr. President, I support the Wallop amendment. Since 1965, when student benefits were first enacted, Federal spending for student assistance programs under the Higher Education Act have increased from $400 million to $4.6 billion projected for fiscal year 1980. That is a phenomenal increase, Mr. President, even in view of inflation and rising costs of education.

Next year we will consider Higher Education Act reauthorization. Mr. President. The Wallop amendment is particularly timely, therefore, as we will have an opportunity in the reauthorization process to examine the effects of the Wallop amendment—and if those effects suggest any further compensation in student assistance programs under the Higher Education Act, we will have every opportunity to take appropriate action at that time.

We all talk about duplication and overlap in Federal programs, Mr. President. We all know that Congress has a propensity to enact new programs—frequently without examining older programs to see where duplication and overlap exist. That potential is particularly noticeable where—as is the case with the social security student benefit and student assistance under the Higher Education Act the programs are in the jurisdiction of two different committees. But we have here clear duplication and overlap; and the Wallop amendment gives us an opportunity to correct that situation.

Mr. President, both the Carter administration and President Ford supported the change embodied in the Wallop amendment. There was some concern voiced earlier this year that the Carter administration's proposal to achieve the objective of the Wallop amendment could unfairly take benefits away from people who are already receiving them. The argument then went that, if we were to make this change, we should make it prospectively—so that students now in school would not actually have their benefits reduced.

The Wallop amendment does that. Mr. President. It puts off until September 1982, implementation of the phase out of the student benefit under social security. That gives adequate notice to those who will be entering school after September 1982, that they should seek other forms of student assistance between then and now. And, as I pointed out earlier, there are other sources of assistance available to them.

As a matter of fact, Mr. President, Senator KENNEDY and I have introduced S. 1600, which proposes to expand the capital available for student loans. If our bill is adopted, as a part of higher education reauthorization next year, then there will be even greater amounts of money available to students through programs other than social security.

I believe this is a reasonable approach. I support the amendment—and I urge my colleagues to do likewise.

Mr. WALLOP. Mr. President, I will close with one final plea: That we take a look at what is really fiscally accountable right now. We are not doing anything to anybody that cannot be rectified by the immediate next Congress. By doing this, we are putting people on notice and we are getting those savings in a year earlier than we would otherwise, and it just seems to this Senator that that is really the way we ought to go when everybody is talking about all the high new taxes and all the troubles, and whether they are going to be eligible or even whether there is going to be a social security trust fund for them to draw on when they ultimately retire. Here is an opportunity to save billions of dollars without really hurting anybody, and I hope Senators will understand this, even though we have not held hearings, and inspite of the fact that next year is an election year.

Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wyoming. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from North Carolina (Mr. MORGAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from California (Mr. HAYAKAWA), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The PRESIDING OFFICER (Mr. BURDICK). The Senate will be in order. Are there any other Senators wishing to vote?

The result was announced—yeas 22, nays 65, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—22

Armstrong	Jepsen	Simpson
Bellmon	Kassebaum	Stevens
Boschwitz	Lugar	Thurmond
Chiles	Nunn	Tower
Cochran	Pressler	Wallop
Glenn	Proxmire	Young
Hatfield	Roth	
Helms	Schmitt	

NAYS—65

Baucus	Eagleton	Metzenbaum
Bayh	Exon	Moynihan
Bentsen	Ford	Muskie
Biden	Garn	Nelson
Bradley	Hart	Packwood
Bumpers	Hatch	Pell
Burdick	Heflin	Percy
Byrd, Harry F., Jr.	Heinz	Pryor
Byrd, Robert C.	Hollings	Ribicoff
Cannon	Huddleston	Riegle
Chafee	Humphrey	Sarbanes
Church	Inouye	Sasser
Cohen	Jackson	Schweiker
Cranston	Javits	Stafford
Culver	Johnston	Stevenson
Danforth	Laxalt	Stewart
DeConcini	Leahy	Stone
Dole	Levin	Tsongas
Domenici	Long	Warner
Durenberger	Magnuson	Weicker
Durkin	McClure	Williams
	Melcher	Zorinsky

NOT VOTING—13

Baker	Kennedy	Randolph
Boren	Mathias	Stennis
Goldwater	Matsunaga	Talmadge
Gravel	McGovern	
Hayakawa	Morgan	

So Mr. WALLOP's amendment (UP No. 863) was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 731

Mr. PERCY. Mr. President, I rise to call up my amendment No. 731.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) for himself, Mr. CRANSTON, Mr. ARMSTRONG, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. FORD, Mr. GARN, Mr. HATCH, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. LAXALT, Mr. MATSUNAGA, Mr. NUNN, Mr. RANDOLPH, Mr. ROTH, Mr. SCHWEIKER, Mr. THURMOND, Mr. YOUNG, and Mr. ZORINSKY proposes amendment numbered 731.

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

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

The amendment is as follows:

On page 106, after line 24, insert the following:

"TITLE VI—A PROVISION RELATING TO THE IMMIGRATION AND NATIONALITY ACT

"SUPPORT OF ALIENS

"SEC. 601. (a) Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"'SEC. 216. (a) No alien shall be admitted to the United States for permanent residence unless (1) at the time of application for admission an agreement described in subsection (b) with respect to such alien has been submitted to, and approved by, the Attorney General (in the case of an alien applying while in the United States) or the Secretary of State (in the case of an alien applying while outside the United States), or (2) such alien presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he has other means to provide the rate of support described in subsection (b). The provisions of this section shall not apply to any alien who is admitted as a refugee under section 203(a)(7), paroled as a refugee under section 212(d)(5), or granted political asylum by the Attorney General.

"'(b) The agreement referred to in subsection (a) shall be signed by a person (hereinafter in this section referred to as the "immigration sponsor") who presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he will provide to the alien the financial support required by this subsection, and such agreement shall constitute a contract between the United States and the immigration sponsor. Such agreement shall be in such form and contain such information as the Attorney General or Secretary of State (as may be appropriate) may require. In such agreement the immigration sponsor shall agree to provide as a condition for the admission of the alien, for the full three-year period beginning on the date of the alien's admission, such financial support (or equivalent in kind support) as is necessary to maintain the alien's income at a dollar amount equal to the amount such alien would receive in benefits under title XVI of the Social Security Act, including State supplementary benefits payable in the State in which such alien resides under section 1616 of such Act and section 212 of the Act of July 9, 1973 (Public Law 93-66), if such alien were an "aged, blind, or disabled individual" as defined in section 1614(a) of the Social Security Act. A copy of such agreement shall be filed with the Attorney General and shall be available upon request by any party authorized to enforce such agreement under subsection (c).

"'(c)(1) Subject to paragraphs (3) and (4), the agreement described in subsection (b) may be enforced with respect to an alien against his immigration sponsor in a civil action brought by the Attorney General or by the alien. Such action may be brought in the United States district court for the district in which the immigration sponsor resides or in which such alien resides, if the amount in controversy is $10,000 or more (or without regard to the amount in controversy if such action cannot be brought in any State court), or in the State courts for the State in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

"'(2) Subject to paragraph (4), for the purpose of assuring the efficient use of funds available for public welfare, the agreement described in subsection (b) may be enforced with respect to an alien against his immigration sponsor in a civil action brought by any State (or the Northern Mariana Islands), or political subdivision thereof, which is making payments to, or on behalf of, such alien under any program based on need. Such action may be brought in the United States district court for the district in which the immigration sponsor resides or in which such alien resides, if the amount in controversy is $10,000 or more (or without regard to the amount in controversy if the action cannot be brought in any State court), or in the State courts of the State in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

"'(3) The right granted to an alien under paragraph (1) to bring a civil action to enforce an agreement described in subsection (b) shall terminate upon the commencement of a civil action to enforce such agreement brought by the Attorney General under paragraph (1) or by a State (or political subdivision thereof) under paragraph (2).

"'(4) The agreement described in subsection (b) shall be excused and unenforceable against the immigration sponsor or his estate if—

"'(A) the immigration sponsor dies or is adjudicated as bankrupt under the Bankruptcy Act,

"'(B) the alien is blind or disabled from causes arising after the date of admission for permanent residence (as determined under section 1614(a) of the Social Security Act),

"'(C) the sponsor affirmatively demonstrates to the satisfaction of the Attorney General that his financial resources subsequent to the date of entering into the support agreement have diminished for reasons beyond his control and that he is financially incapable of supporting the alien, or

"'(D) judgment cannot be obtained in court because of circumstances unforeseeable to the alien at the time of the agreement.

"'(d)(1) If an agreement under subsection (b) becomes excused and unenforceable under the provisions of subsection (c)(4)(C) on account of the sponsor's inability to financially support the alien, such agreement shall remain excused and unenforceable only for so long as such sponsor remains unable to support the alien (as determined by the Attorney General), but in no case shall the agreement be enforceable after the expiration of the three-year period designated in the agreement. The sponsor shall not be responsible for support of the alien for the time during which the agreement was excused and unenforceable, except as provided in paragraph (2).

"'(2)(A) If the Attorney General determines that a sponsor intentionally reduced his income or assets for the purpose of excusing a support agreement, and such agreement was excused as a result of such reduction, the sponsor shall be responsible for the support of the alien in the same manner as if such agreement had not been excused, and shall be responsible for repayment of any public assistance provided to such alien during the time such agreement was so excused.

"'(B) For purposes of this paragraph the term "public assistance" means cash benefits based on need, or food stamps.'.

"(b) The table of contents for chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"'Sec. 216. Support of aliens.'.

"(c) Section 212(a)(15) of the Immigration and Nationality Act is amended by inserting before the semicolon the following: ', or who fail to meet the requirements of section 216'.

"(d) The amendments made by this section shall apply with respect to aliens applying for immigrant visas or adjustment of status to permanent resident on or after the first day of the fourth month following the date of the enactment of this Act.".

On page 99, line 23, strike out "or (II)" and insert in lieu thereof the following: "(II) the support agreement with respect to such alien under section 216 of the Immigration and Nationality Act is excused and unenforceable pursuant to subsection (c) of such section, or (III)".

On page 33, amend the table of contents by adding at the end thereof the following items:

"TITLE VI—A PROVISION RELATING TO THE IMMIGRATION AND NATIONALITY ACT

"Sec. 601. Support of aliens.".

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois (Mr. PERCY) has the floor.

Mr. BAYH. Will the Senator from Illinois yield for 30 seconds?

Mr. PERCY. I am happy to yield to the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I ask unanimous consent that Louise Malone of my staff be permitted access to the floor during the debate and voting on this particular bill and the amendments thereto.

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

Mr. BAYH. Mr. President, I intend to send to the desk an amendment which the Senator from Indiana will offer after the Senator from Illinois, so that he may go ahead. Obviously, we are not going to be able to consider that today, but I think it should be printed so that everybody can have a chance to study it.

Mr. PERCY. Mr. President, amendment No. 731, cosponsored by 22 of my distinguished colleagues, including Senator CRANSTON, the principal cosponsor, is designed to curb certain abuses of the supplemental security income program by newly-arrived aliens.

Among my distinguished colleagues who have cosponsored this amendment, none have been more diligent than Senator HAYAKAWA and I would like to pay a special compliment to my distinguished colleague, whose continuing strong efforts to close this costly loophole have given this amendment great momentum.

I would also compliment Miss Patty White of Senator HAYAKAWA's staff who has worked closely with my own staff to get this measure passed. I am confident we will join together again to pass similar cost-saving measures.

Mr. President, this amendment was originally contained in S. 1070, which I introduced on May 3, 1979, and is being introduced as an amendment to H.R. 3236, an act designed to remove certain work disincentives for the disabled from the supplemental income program (SSI). Another portion of S. 1070 has already been added as an amendment to H.R. 3236.

Over 2 years ago, it came to my attention that a loophole in this Nation's immigration and social security laws was costing the American taxpayer many millions of dollars annually in SSI benefits to newly arrived aliens. In a letter dated April 20, 1977, I requested that the General Accounting Office conduct a study of the SSI program to determine how many newly arrived legal aliens (those in the United States for 5 years or less) were receiving SSI benefits and how much these benefits were costing the American taxpayer. As a result of a 6-month study, the GAO issued a report on February 22, 1978, which found that the number of newly arrived aliens receiving SSI needed to be reduced. The GAO concluded that Federal legislation was needed to correct this growing problem. Mr. President, I ask unanimous consent that this GAO report be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PERCY. The GAO's findings were a startling revelation to me. Specifically, the GAO determined that during 1977, in five States alone (those with the largest number of aliens), about 37,500 newly arrived aliens received close to $72 million in SSI benefits. About $16 million of this amount was paid to refugees. The GAO further found that of the total alien population receiving SSI an estimated 63 percent had enrolled in the program during their first year of residency in this country. All told, 96 percent of those aliens receiving SSI had resided in the United States for 3 years or less at the time they first began receiving benefits.

I would now like to take a few moments to explain the loophope. The Immigration and Nationality Act—the foundation of our Nation's immigration policy—specifically attempts to provide against newly arrived aliens receiving public assistance. In part, the act states that aliens are:

> Ineligible to receive visas and shall be excluded from admission into the United States . . . [if] in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, . . . [they are] likely at any time to become public charges. . . ." (8 U.S.C. 1182)

The second provision provides that any alien in the United States:

> Shall, upon the order of the Attorney General, be deported . . . [if] in the opinion of the Attorney General, [he/she] has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry. (8 U.S.C. 1251)

To comply with these provisions, an alien seeking admission to the United States must demonstrate to the Federal Government that if he cannot support himself, he will not become a public charge once in this country. In order to meet this guarantee, an alien often has a sponsor, usually a blood relative or close friend, execute an affidavit declaring his willingness to support the alien if he cannot support himself once in the United States. The Immigration and Naturalization Service affidavit form provided to alien sponsors specifically states that:

> This affidavit is made by me for the purpose of assuring the United States Government that (the sponsored alien) will not become (a) public charge(s) in the United States.

In the affidavit, the sponsor demonstrates his ability to support the alien by listing income and assets.

In spite of this pledge of support, courts have ruled that the affidavit is not an enforceable contract but merely a moral obligation on the part of the sponsor to the Federal Government. In one such case, the Supreme Court of Michigan declared:

> There is no question here of the power of the United States Government, under proper enabling act of Congress, to make or require such contract from sponsors. The question is whether the government has done so. We hold that it has not. There being no such act of Congress empowering Immigration officials to make or require such a contract for the United States government, it can scarcely be concluded that there was an intent on the part of the government to create a contractual obligation. (*State* v. *Binder*, 96 N.W.2nd 140, 143).

As a result of such court rulings, effective enforcement of the affidavit of support is virtually impossible. Today, a sponsor cannot be held legally accountable for refusing to support a newly-arrived alien, even if the sponsor clearly has the means to do so.

In addition, although U.S. Immigration laws clearly state that an alien is subject to deportation if he receives public assistance within 5 years of entry into the United States, nevertheless, INS has ruled that an alien who receives public assistsance within 5 years after entry is deportable only if:

First, the program from which the alien receives assistance requires repayment;

Second, a demand for repayment has been made;

Third, the alien has refused or is unable to make repayment.

SSI, as a public assistance program, makes no demand for repayment from its alien beneficiaries so long as the individual meets eligibility requirements. An alien, in order to be eligible for SSI benefits, must be lawfully admitted for permanent residency or reside in the United States under color of law. Eligibility is not based upon length of residence. Thus, the Federal Government has created a policy by default—allowing sponsors to disregard their pledges of support no matter how much income or assets they may have and permitting newly arrived aliens to receive public assistance without fear of retribution. Both Social Security Administration and Immigration and Naturalization Service officials are powerless under present law to take any action that will curb this alarming trend. What is the end result? Many recently arrived aliens now receive gifts from the Government—"instant pensions." In the end, the responsibility for financial support of the alien is shifted from the sponsor to the taxpayer.

In numerous cases, sponsors who have reneged on their promises of support had the full financial capability to support the newly-arrived alien but instead chose to take advantage of the loophole. A May 7, 1979, article in the Los Angeles Times provides some choice examples:

> A 64-year-old man in Sunnyvale, California, . . . entered the country under the sponsorship of his daughter, who earns over $25,000 and lists assets worth over $130,000. He applied for and received welfare benefits within four months of his arrival.
>
> Three months after entering the United States, a couple from San Francisco began receiving monthly benefits of $338, despite the fact that their son-in-law had signed an affidavit guaranteeing that they would not become public charges. Once they got on welfare, he discontinued all assistance, whereupon the couple's benefits were increased to $422 per month.
>
> One elderly woman, whose entry was sponsored by her daughter in Illinois, actually applied for welfare two months before she arrived in America. The payments began 15 days after she joined her daughter.

Similar instances of abuse have also been fully documented by the GAO. Moreover, this past week the Social Security Administration delivered to me the results of its own study on alien participation in the SSI program. That study found the proportion of newly-arrived aliens who have been awarded SSI has remained constant since the GAO conducted its study. Manifestly, the alien abuse problem continues unabated and may be increasing in cost. Mr. President, I ask unanimous consent that this recent study of alien participation in the supplemental security income program be inserted in the RECORD at the conclusion of my remarks.

The amendment for which I speak today would make the sponsor's affidavit of support a legally enforceable contract. This measure has received strong bipartisan support. Senator CRANSTON is its principal cosponsor and 22 other Members of this distinguished body have signed on as cosponsors.

On October 26, 1979, during Finance Committee consideration of H.R. 3236, Senator ROTH offered as an amendment that portion of S. 1070 requiring all aliens, with the exception of refugees, to meet a 3-year residency requirement for participation is the SSI program. The committee unanimously approved the amendment which is now included in section 504(a) of H.R. 3236.

Today, in voting on this amendment which is specifically concerned with the affidavit of support, we have an opportunity to eliminate this intolerable loophole. While a 3-year residency requirement for participation in the SSI program is undoubtedly an important step in curbing the abuses now under discussion, a residency requirement alone will not prevent sponsors from reneging

on their promises of support to newly-arrived aliens. If the affidavit is not made enforceable, an unwanted hardship could be brought to bear on those aliens whose sponsors refuse to live up to their support agreements. In that event, if the alien does not meet the 3-year residency requirement now incorporated into H.R. 3236, the affected alien could turn to the State for public assistance. In order to avoid this unfair burden to both the alien and the State, it is essential that would-be sponsors be held legally accountable for their promises of support. With the added deterrent of a binding affidavit of support, few would treat their obligations lightly. If the sponsor chooses not to live up to his obligation of support, he may be subject to civil suit in either Federal or State court.

I would like to make very clear that this amendment is not intended to penalize the honest and well-intentioned sponsor. The sponsor can be relieved from his obligation of support if he is able to affirmatively demonstrate that his financial resources subsequent to the execution of the affidavit have diminished for reasons beyond his control and that he is financially incapable of supporting the alien. If such a determination is made, the alien who has lost his means of support would then be eligible for SSI assistance and not be required to meet the 3-year residency requirement.

In order to best effect its cost-saving purpose, an enforceable affidavit of support is an essential element in eliminating the loophole. The time has now come for the responsibility of an alien's support to be squarely placed on the shoulders of the sponsor who promises to do so, and not the American public. My distinguished colleagues, we have before us a real opportunity to enact cost-saving legislation that can be implemented quickly and efficiently. We, the 96th Congress, committed to vigorous oversight, have promised our constituents a close scrutiny of Federal spending and have promised to cut costs wherever it can be justified. Clearly, this amendment will fulfill that mandate. I would, therefore, urge my colleagues to accept this amendment and make the sponsor's affidavit of support a legally binding and enforceable agreement.

Mr. President, yesterday the Comptroller General of the United States, Elmer Staats, achieved 40 years of Government service. I went over to pay tribute to the most diligent of public servants, together with JACK BROOKS, of the House, and FRANK HORTON. I know Senator RIBICOFF would have liked to join us in personally congratulating the Comptroller General because the Governmental Affairs Committee of the Senate, along with the Government Operations Committee of the House have oversight over the Comptroller General's Office.

In talking with the Comptroller General, the watchdog of Congress, I was reminded that last year this important arm of Congress brought savings of $2.9 billion to the American taxpayer through the implementation of their reports and studys. However, I must sadly note that it is a great discouragement to the 5,200 employees in GAO when they issue a report and no action is taken to implement its findings.

Elmer Staats explained his concern and frustration to me—knowing what should be done, having pains takingly accomplished all the work, and remaining powerless to implement the findings. As my distinguished colleagues know, it is our task to take the needed actions.

In this case, we ordered a report, and said: "The law is very clear. A sponsor promises that an alien coming into the country will not be public charge for 5 years." The sponsor certifies their assets with the presumption that if the alien cannot support himself while here, that the sponsor will provide for his care and support.

But we all know how this agreement has worked. Sponsors all too often do not live up to their promises of support.

We all, in a sense, through our forebearers were aliens at one time, but no one that I know of in this body, parents, grandparents, or great grandparents, came to this country assuming they were going to become public charges the minute they arrived. Yet the report of the Comptroller General has found that thousands of people come into this country and they may come in on Monday and by Wednesday the sponsor who has promised, "You will not be a public charge," takes them right down to the social security office so that they can sign up for supplemental security income benefits.

Let us take a look and see what benefits they receive. These newly arrived aliens have not contributed a penny to this country and yet they are eligible to start receiving $208.20 monthly for individuals and $312.30 monthly for couples.

There is something very wrong in allowing this irresponsible conduct to continue. If we do not close this loophole now it will just continue to expand, costing the American taxpayer many more millions of dollars each year.

Clearly, the sponsor should take full responsibility for the promise of support which he has made.

Well, there is a recourse and that is to make the sponsor's affidavit of support a legally enforceable contract with the Federal Government. We have discussed this matter with the ranking minority member of the Finance Committee, Senator DOLE. He is well aware of this amendment's intent. We have also discussed the need for an enforceable affidavit with Senator LONG, the chairman of the Finance Committee. Both have been extraordinarily sympathetic with our efforts to eliminate this costly loophole now.

If the cost is, as the Comptroller General reported years ago, $72 million per year in 5 States alone, how much is this loophole costing the 50 States of the Union? Certainly, it is more than $72 million each year. No wonder we have such an overburdened budget when loopholes costing $70 million or more each year, are allowed to continue unabated.

We can eliminate this loophole and reduce the taxpayers' burden by passing this amendment. This is what Senator HAYAKAWA, Senator CRANSTON, and the 22 cosponsors of this amendment hope to accomplish today.

EXHIBIT 1

TABLE 1.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, 1ST YR OF U.S. RESIDENCE AND REASON FOR ELIGIBILITY, SEPTEMBER 1978 TO MAY 1979

Citizenship status	Total	Adults			Children	
		Aged	Blind	Disabled	Blind	Disabled
Total	272,893	105,159	3,375	136,223	888	27,248
U.S. citizens [1]	247,872	90,007	3,140	127,770	852	26,103
Aliens, total	17,901	12,846	156	4,513	19	367
Alien status:						
Conditionally admitted	3,777	2,798	36	843	5	95
Indochinese refugees	637	452	16	121	4	44
Other refugees [2]	1,693	1,196	11	452	1	33
Attorney General's parole [3]	1,325	1,073	8	233		11
Deferred action	122	77	1	37		7
Other lawfully admitted aliens	14,124	10,048	120	3,670	14	272
Status not reported	7,120	2,306	79	3,940	17	778
1st-yr of residence:						
Total	17,901	12,846	156	4,513	19	367
1977–79	7,842	6,708	56	948	6	124
1974–76	2,455	1,665	26	662	6	96
Prior to 1974	7,604	4,473	74	2,903	7	147
Conditionally admitted	3,777	2,798	36	843	5	95

Citizenship status	Total	Adults			Children	
		Aged	Blind	Disabled	Blind	Disabled
						8
1977–79	2,411	2,017	21	333	2	33
1974–76	515	317	7	156	2	3
Prior to 1974	851	464	8	354	1	24
Other lawfully admitted aliens	14,124	10,048	120	3,670	14	272
1977–79	5,431	4,691	35	615	4	86
1974–76	1,940	1,348	19	506	4	63
Prior to 1974	6,753	4,009	66	2,549	6	123

[1] Includes persons residing in the United States prior to June 30, 1948.
[2] Sec. 203(a)(7) of the Immigration and Nationality Act.
[3] Sec. 212(d)(5) of the Immigration and Nationality Act.

TABLE 2.—SUPPLEMENTAL SECURITY INCOME: NUMBER AND PERCENTAGE DISTRIBUTION OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, AGE, SEX, AND RACE, SEPTEMBER 1978 TO MAY 1979

Age, sex, and race	All awards[1]	U.S. citizens[2]	Aliens conditionally admitted			Other lawfully admitted aliens		
			Total	1974–79	Prior to 1974	Total	1974–79	Prior to 1974
Total number	272,893	247,872	3,777	2,926	851	14,124	7,371	6,753
Total percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Age:[3]								
Under 18	10.5	11.1	2.5	2.5	2.7	2.0	2.0	1.9
18 to 21	6.2	6.5	1.3	.7	3.3	1.7	1.2	2.3
22 to 29	6.6	7.0	2.1	1.6	3.6	2.4	1.7	3.2
30 to 39	6.3	6.6	1.7	1.4	2.8	2.7	1.9	3.6
40 to 49	7.9	8.2	3.6	2.0	8.9	3.8	1.5	6.3
50 to 59	15.9	16.4	7.5	5.2	15.4	9.4	4.5	14.8
60 to 64	10.5	10.4	12.1	11.7	13.3	12.6	10.6	14.7
65 to 69	15.5	14.1	32.9	34.4	27.4	34.3	38.9	29.3
70 to 74	7.5	6.8	19.1	21.9	9.4	16.4	21.7	10.5
75 to 79	5.4	5.2	9.8	10.8	6.2	8.4	10.4	6.3
80 and over	7.6	7.7	7.5	7.7	6.9	6.3	5.6	7.1
Sex:								
Men	44.2	44.3	43.3	44.4	39.8	41.3	41.9	40.6
Women	55.8	55.7	56.7	55.6	60.2	58.7	58.1	59.4
Race:								
White	64.3	66.0	32.2	21.7	68.2	45.2	23.6	68.8
Black	23.6	24.9	1.4	1.1	2.5	6.3	5.9	6.8
Other	3.5	2.2	19.6	19.6	19.6	21.8	27.8	15.2
Unknown	8.6	6.9	46.8	57.6	9.8	26.7	42.7	9.3

[1] Includes 7,120 awards for which citizenship status was not reported.
[2] Includes persons residing in the United States prior to June 30, 1948.
[3] Age on birthday in 1978.

TABLE 3.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, 1ST YR OF U.S. RESIDENCE, AND STATE, SEPTEMBER 1978 TO MAY 1979

State	All awards[1]	U.S. citizens[2]	Aliens				
			Total	Status		1st yr of residence	
				Conditionally admitted[3]	Other	Prior to 1974	1974–79
Total	272,893	247,872	17,901	3,777	14,124	7,604	10,297
Alabama	7,794	7,581	15	2	13	4	11
Alaska	229	212	11	2	9	4	7
Arizona	2,023	1,858	105	6	99	82	23
Arkansas	3,796	3,562	15	10	5	4	11
California	40,778	33,264	6,265	1,253	5,012	2,746	3,519
Colorado	1,894	1,709	86	50	36	17	69
Connecticut	2,029	1,832	153	28	125	58	95
Delaware	709	673	13	5	8	6	7
District of Columbia	1,220	1,146	38	7	31	18	20
Florida	12,679	10,798	1,546	374	1,172	822	724
Georgia	9,186	8,916	50	18	32	12	38
Hawaii	847	595	243	22	221	62	181
Idaho	580	558	8		8	4	4
Illinois	9,270	8,463	645	171	474	179	466
Indiana	3,921	3,825	35	9	26	13	22
Iowa	2,403	2,334	29	15	14	6	23
Kansas	1,576	1,523	29	16	13	8	21
Kentucky	5,801	5,619	22	10	12	1	21
Louisiana	6,311	5,912	111	50	61	38	73
Maine	1,719	1,665	21	3	18	14	7
Maryland	3,795	3,488	240	112	128	41	199
Massachusetts	8,896	8,032	687	92	595	329	358
Michigan	8,320	7,824	306	62	244	108	198
Minnesota	2,143	2,027	64	35	29	7	57
Mississippi	5,299	5,213	7	2	5	1	6
Missouri	5,972	5,770	70	38	32	12	58
Montana	565	535	11	6	5	4	7
Nebraska	1,187	1,147	14	7	7	4	10
Nevada	828	753	48	3	45	22	26
New Hampshire	468	450	11	2	9	5	6
New Jersey	8,689	7,566	896	113	783	330	566
New Mexico	1,404	1,288	48	8	40	32	16
New York	24,913	20,777	3,484	657	2,827	1,353	2,131
North Carolina	9,066	8,867	26	7	19	8	18
North Dakota	371	360	2	1	1	1	1
Ohio	8,443	8,065	190	85	105	33	157
Oklahoma	2,708	2,547	16	11	5	1	15
Oregon	1,774	1,656	80	23	57	25	55
Pennsylvania	12,930	12,389	302	135	167	76	226
Rhode Island	1,078	907	145	13	132	59	86
South Carolina	5,896	5,783	22	5	17	3	19

TABLE 3.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY CITIZENSHIP STATUS, 1ST YR OF U.S. RESIDENCE, AND STATE, SEPTEMBER 1978 TO MAY 1979—Continued

State	All awards [1]	U.S. citizens [2]	Aliens				
			Total	Status		1st yr of residence	
				Conditionally admitted [3]	Other	Prior to 1974	1974–79
South Dakota	655	641	2		2	1	1
Tennessee	7,332	7,121	32	16	16	6	26
Texas	16,240	14,345	1,246	152	1,094	898	348
Utah	504	456	27	12	15	8	19
Vermont	776	766	4		4	4	
Virginia	6,269	6,006	174	40	134	24	150
Washington	3,247	2,966	203	42	161	71	132
West Virginia	2,629	2,571	5	4	1		5
Wisconsin	5,489	5,287	94	43	51	37	57
Wyoming	142	136	5		5	3	2
Unknown	4	2					
Other areas: Northern Mariana Islands	96	86					

[1] Includes 7,120 awards for which citizenship status was not reported.
[2] Includes persons residing in the United States prior to June 30, 1948.
[3] Includes Indochinese refugees, other refugees, Attorney General's parole and deferred status aliens.

TABLE 4.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF ALIENS AWARDED FEDERALLY ADMINISTERED PAYMENTS BY COUNTRY OF BIRTH, SEPTEMBER 1978 TO MAY 1979 [1]

Country of birth	All aliens	Aliens conditionally admitted			Other lawfully admitted aliens		
		Total	1974–79	Prior to 1974	Total	1974–79	Prior to 1974
Total	17,901	3,777	2,926	851	14,124	7,371	6,753
Country reported	15,020	3,429	2,826	603	11,591	7,076	4,515
China	726	189	173	16	537	475	62
Colombia	252	16	8	8	236	124	112
Cuba	1,378	387	240	147	991	368	623
Dominican Republic	529	18	8	10	511	260	251
Greece	221	22	12	10	199	122	77
Haiti	250	9	3	6	241	120	121
India	230	38	33	5	192	179	13
Indochina	667	562	549	13	105	101	4
Cambodia	(34)	(30)	(22)	(8)	(4)	(4)	
Laos	(128)	(111)	(111)		(17)	(16)	(1)
Vietnam	(505)	(421)	(416)	(5)	(84)	(81)	(3)
Italy	371	25	6	19	346	146	200
Jamaica	321	18	11	7	303	165	138
Korea	737	104	84	20	633	551	82
Mexico	1,813	189	57	132	1,624	408	1,216
Portugal	446	30	17	13	416	250	166
Philippines	1,752	118	108	10	1,634	1,529	105
Turkey	317	116	110	6	201	170	31
China (Taiwan)	408	93	59	34	315	218	97
U.S.S.R.	1,325	1,083	1,070	13	242	189	53
All other	3,277	412	278	134	2,865	1,701	1,164
Country not reported	2,881	348	100	248	2,533	295	2,238

[1] Separate listing limited to countries with 200 or more aliens.

TABLE 5.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS, SEPTEMBER 1978 TO MAY 1979 AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979

[Percent in concurrent receipt of income and average monthly amount by citizenship status, reason for eligibility, type of income and average monthly amount]

Reason for eligibility	All awards	Percent with income				Average monthly amount			
		Social security benefits	Other unearned income		Earned income	Social security benefits	Other unearned income		Earned income
			Total	Support and maintenance in kind			Total	Support and maintenance in kind	
All awards: [1]									
Aged	91,440	76.0	4.5	2.5	3.6	$174.24	$90.28	$63.29	$111.26
Blind and disabled	126,177	26.6	13.7	5.6	3.1	176.37	78.13	64.19	100.41
Total	217,617	47.3	9.8	4.4	3.3	174.93	80.47	63.97	105.40
U.S. citizens: [2]									
Aged	77,851	84.4	3.5	1.9	3.8	174.30	93.75	61.77	99.03
Blind and disabled	118,589	26.7	13.7	5.8	3.1	176.17	77.94	64.29	99.33
Total	196,440	49.6	9.6	4.3	3.4	174.91	80.23	63.84	99.19
Aliens conditionally admitted:									
Aged	2,580	8.6	13.0	9.7	.8	175.67	95.92	69.32	227.13
Blind and disabled	815	11.3	19.8	9.3	.7	187.59	85.76	65.76	114.00
Total	3,395	9.2	14.6	9.6	.8	179.16	92.63	68.49	203.72
1974–79:									
Aged	2,180	.8	14.1	10.7	.6	148.94	95.67	69.08	228.28
Blind and disabled	526	1.9	20.2	10.5	.6	185.50	85.50	67.16	105.00
Total	2,706	1.0	15.3	10.7	.6	162.48	93.06	68.71	206.52

Reason for eligibility	All awards	Percent with income: Social security benefits	Percent with income: Other unearned income: Total	Percent with income: Other unearned income: Support and maintenance in kind	Percent with income: Earned income	Average monthly amount: Social security benefits	Average monthly amount: Other unearned income: Total	Average monthly amount: Other unearned income: Support and maintenance in kind	Average monthly amount: Earned income
Prior to 1974:									
Aged	400	51.3	7.3	4.0	2.3	177.88	98.58	72.87	225.33
Blind and disabled	289	28.4	19.0	7.3	1.0	187.84	86.27	62.09	173.00
Total	689	41.7	12.2	5.4	1.7	180.73	90.92	66.75	199.75
Other lawfully admitted aliens:									
Aged	9,081	23.0	10.6	5.6	2.8	176.01	79.55	65.21	243.15
Blind and disabled	3,271	21.2	15.9	7.5	1.2	192.69	82.88	66.11	105.87
Total	12,352	22.5	12.0	6.1	2.3	180.17	80.72	65.50	225.03
1974–79:									
Aged	5,538	2.2	12.7	6.7	2.2	151.28	75.72	65.42	282.54
Blind and disabled	1,161	3.4	16.2	8.4	1.0	179.26	89.72	62.10	105.42
Total	6,699	2.4	13.3	7.0	2.0	158.66	78.67	66.19	266.67
Prior to 1974:									
Aged	3,543	55.4	7.4	3.8	3.6	177.54	89.81	64.62	205.60
Blind and disabled	2,111	31.1	15.7	6.9	1.2	193.49	79.02	64.10	106.08
Total	5,564	46.3	10.5	5.0	2.7	181.53	89.78	64.35	188.80

[1] Includes awards for which citizenship status was not available.

[2] Includes persons residing in the United States prior to June 30, 1948.

TABLE 6.—SUPPLEMENTAL SECURITY INCOME: NUMBER AND PERCENTAGE DISTRIBUTION OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS SEPTEMBER 1978 TO MAY 1979, AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979

[By citizenship status and living arrangements]

Living arrangements	All awards [1]	U.S. citizen [2]	Aliens conditionally admitted: Total	Aliens conditionally admitted: 1974–79	Aliens conditionally admitted: Prior to 1974	Other lawfully admitted aliens: Total	Other lawfully admitted aliens: 1974–79	Other lawfully admitted aliens: Prior to 1974
Total number	217,617	196,440	3,395	2,706	689	12,353	6,699	5,654
Total percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Own household	79.3	81.1	68.8	68.6	69.6	51.4	35.0	70.8
Another's household	16.7	14.7	30.3	30.9	28.2	47.7	64.5	27.9
Institutional care covered by medicaid	4.0	4.2	.9	.6	2.1	.9	.5	1.3

[1] Includes 5,429 awards for which citizenship status was not reported.

[2] Includes persons residing in the United States prior to June 30, 1948.

TABLE 7.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS, SEPTEMBER 1978 TO MAY 1979 AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979

[By citizenship status and average monthly amount]

Type of payment	All awards [1]	U.S. citizens [2]	Aliens conditionally admitted: Total	Aliens conditionally admitted: 1974–79	Aliens conditionally admitted: Prior to 1974	Other lawfully admitted aliens: Total	Other lawfully admitted aliens: 1974–79	Other lawfully admitted aliens: Prior to 1974
	Number of persons							
Total	217,617	196,440	3,395	2,706	689	12,353	6,699	5,654
Federal SSI payments	198,221	178,084	3,326	2,679	647	11,750	6,611	5,139
Federal SSI payments only	123,738	115,970	1,221	951	270	3,367	1,645	1,722
Federal SSI and State supplementation	74,483	62,114	2,105	1,728	377	8,838	4,966	3,417
State supplementation	93,879	80,470	2,174	1,755	419	8,986	5,054	3,392
State supplemenattion only	19,396	18,356	69	27	42	603	88	515
	Average monthly amount							
Total	$115.64	$111.40	$185.68	$196.85	$141.84	$160.13	$182.27	$133.89
Federal SSI payments	97.08	95.08	137.27	147.15	98.36	113.54	129.30	93.26
State supplementation	62.87	61.33	79.64	78.54	84.23	71.50	72.29	70.49

[1] Includes 5,429 awards for which citizenship status was not reported.

[2] Includes persons residing in the United States prior to June 30, 1948.

TABLE 8.—SUPPLEMENTAL SECURITY INCOME: NUMBER OF AGED PERSONS AWARDED FEDERALLY ADMINISTERED PAYMENTS SEPTEMBER 1978–MAY 1979 AND IN RECEIPT OF SSI PAYMENTS IN MAY 1979, BY CITIZENSHIP STATUS AND AVERAGE MONTHLY AMOUNT

Type of payment	All awards [1]	U.S. citizens [2]	Aliens conditionally admitted: Total	Aliens conditionally admitted: 1974–79	Aliens conditionally admitted: Prior to 1974	Other lawfully admitted aliens: Total	Other lawfully admitted aliens: 1974–79	Other lawfully admitted aliens: Prior to 1974
	Number of aged persons							
Total	91,440	77,851	2,580	2,180	400	9,081	5,538	3,543
Federal SSI payments	78,064	65,195	2,527	2,158	369	8,608	5,464	3,144
Federal SSI payments only	47,516	43,018	939	791	148	2,415	1,342	1,073
Federal SSI and State supplementation	30,548	22,177	1,588	1,367	221	6,193	4,122	2,071
State supplementation	43,924	34,833	1,641	1,389	252	6,666	4,196	2,470
State supplementation only	13,376	12,656	53	22	31	473	74	399
	Average monthly amount							
Total	$86.68	$75.00	$186.31	$196.31	$131.80	$158.20	$182.20	$120.69
Federal SSI payments	65.44	56.55	138.03	147.05	85.28	110.99	127.78	81.81
State supplementation	64.07	61.73	80.07	79.32	84.18	72.06	73.93	68.89

[1] Includes 1,928 awards for which citizenship status was not reported.

[2] Includes persons residing in the United States prior to June 30, 1948.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 22, 1978.

To the President of the Senate and the Speaker of the House of Representatives:

This report discusses administrative and legislative changes needed to reduce expenditures of Supplemental Security Income and other public assistance for newly arrived aliens. Because of anticipated early action on pending legislation concerning this matter, we did not take the additional time needed to obtain written agency comments. The matters covered in the report, however, were informally discussed with agency officials, and their comments are incorporated where appropriate.

We made our review at the request of Senator Charles H. Percy, Ranking Minority Member of the Committee on Governmental Affairs. Also, Congressman Richard A. Gephardt subsequently requested a similar review. We are sending copies of this report to the Acting Director, Office of Management and Budget; the Attorney General; the Secretary of Health, Education, and Welfare; and the Secretary of State.

ELMER B. STAATS.
Comptroller General of the United States.

NUMBER OF NEWLY ARRIVED ALIENS WHO RECEIVE SUPPLEMENTAL SECURITY INCOME NEEDS TO BE REDUCED

DIGEST

About 37,500 newly arrived aliens (those in the United States for 5 years or less) in five States annually receive about $72 million in Supplemental Security Income benefits. About $16 million of this is paid to refugees.

The Immigrant and Nationality Act provides that aliens likely to require public assistance for their support are to be denied admission into the United States. The act also states that aliens who become public charges within 5 years of entry from causes arising before entry may be subject to deportation. These provisions are generally not applied to refugees.

The Supplemental Security Income program authorized in the Social Security Act does not have a residency requirement for aliens. Newly arrived aliens need only be admitted for permanent residency or be refugees.

The Department of State and the Immigration and Naturalization Service obtain affidavits of support from persons willing to sponsor aliens who lack sufficient means to support themselves when applying for permanent residency in the United States. These are used as evidence that the alien is not likely to become a public charge. State Department and Immigration Service officials do not have information on the number of affidavits accepted. However, one Department official said many aged and disabled aliens appear likely to become public charges and cannot qualify to immigrate without these affidavits.

Most newly arrived aliens identified in our review who received Supplemental Security Income had been sponsored with affidavits of support. Their sponsors, who agreed to provide necessary support and guaranteed that the aliens would not become public charges, did not fulfill their promises.

Sponsors cannot be held liable because courts have ruled their promises are not legally binding.

Newly arrived aliens are seldom deported as public charges even though many receive public assistance for causes that arose before entry. Because of court rulings and Department of Justice decisions, aliens are deportable as public charges only if they fail to repay public assistance upon demand. However, repayment is not required under the Supplemental Security Income program and other public assistance programs.

Better screening of visa applications, use of more stringent income criteria for judging sponsors' ability to provide support, and increased coordination between the Immigration Service and Social Security on aliens' overseas assets may prevent some newly arrived aliens from receiving Supplemental Security Income. Social Security is reviewing whether the asset information should be routinely obtained from the Immigration Service.

GAO believes legislation is needed before any significant reduction in public assistance to newly arrived aliens will be realized. Several bills introduced in the 95th Congress would strengthen the Government's ability to prevent many newly arrived aliens from receiving public assistance.

RECOMMENDATIONS TO THE SECRETARIES OF STATE AND HEALTH, EDUCATION, AND WELFARE

GAO recommends that the Secretary of State:

In cooperation with the Secretary of Health, Education, and Welfare, develop more stringent income criteria for judging the ability of a sponsor to support a visa applicant.

Emphasize to consular officers the importance of screening aliens who may apply for public assistance.

GAO recommends that the Secretary of Health, Education, and Welfare direct the Commissioner of Social Security to report to the Congress the results of its review on obtaining aliens' overseas asset information from the Immigration Service for reducing aliens' eligibility for Supplementary Security Income benefits.

RECOMMENDATIONS TO THE CONGRESS

GAO recommends that the Congress:

Establish a residency requirement to prevent assistance payments to newly arrived aliens, if the condition upon which eligibility is established existed before entry.

Make the affidavit of support legally binding on the sponsor.

Make aliens subject to deportation if they receive Federal, State, or local public assistance because of conditions existing before entering the United States.

CHAPTER 1: INTRODUCTION

Members of Congress, the public, and the news media have recently expressed concern about aliens who receive public assistance soon after arriving in the United States. On April 20, 1977, Senator Charles H. Percy, Ranking Minority Member of the Committee on Governmental Affairs, asked us to:

Determine how many newly arrived legal aliens (those in the United States 5 years or less) were receiving Supplemental Security Income (SSI) benefits and how much they were receiving.

Review the effectiveness of the Social Security Administration's (SSA's), the Department of State's, and the Immigration and Naturalization Service's (INS') handling of aliens receiving these benefits.

Identify legislative and administrative improvements needed to reduce Federal public assistance expenditures in this area.

On May 20, 1977, Congressman Richard A. Gephardt requested similar information.

Immigration and Nationality Act

The Immigration and Nationality Act (8 U.S.C. 1101) prescribes the conditions for admission and stay of aliens in the United States. The act defines aliens as persons who are not U.S. citizens or nationals.

The act states that aliens likely to require public assistance for their support are to be denied admission into the United States. Aliens can prove they are not likely to receive public assistance by demonstrating that permanent employment providing adequate income is available upon their arrival, that they have adequate funds to support themselves, or that someone in the United States promises to provide necessary support. If these conditions cannot be met, a bond, commonly called a public charge bond, must be posted to reimburse public funds spent if the alien becomes a public charge. Aliens who become public charges during the first 5 years of residence in the United States from causes arising before entry may be subject to deportation.

The Secretary of State and the Attorney General—INS—are responsible for administering and enforcing the act.

Supplemental security income

The SSI program was established under title XVI of the Social Security Act (42 U.S.C. 1381) to provide cash assistance to the needy aged, blind, and disabled. The program, which became effective on January 1, 1974, replaced former grant-in-aid programs to the States for assisting the aged, blind, and permanently and totally disabled.

In 1976 the highest Federal basic monthly benefit was $167.80 for one person and $251.80 for a couple. Presently, the maximum Federal benefits are $177.80 and $266.70, respectively. Larger monthly payments are made in States that supplement SSI payments. Many State supplements are administered for the States by SSA.

SSA administers the SSI program at its headquarters in Baltimore, at 10 regional offices, and at over 1,300 district and branch offices throughout the Nation. SSI funds are appropriated from general revenues. For fiscal year 1977, $4.7 billion was appropriated for payments to recipients. SSA estimates that federally administered State supplemental payments totaled about $1.5 billion for the same period. About 4 million persons presently receive SSI benefits.

Other federally funded public assistance

Newly arrived aliens also receive benefits under other public assistance programs, including the Medicaid and Aid to Families with Dependent Children (AFDC) programs. Although our review focused on the SSI program, chapter 2 discusses the impact of newly arrived aliens on the Medicaid and AFDC programs in California.

Medicaid (title XIX of the Social Security Act) is a program designed to provide medical assistance to SSI and AFDC recipients and other medically needy persons. The AFDC program (title IV of the Social Security Act) was established to enable States to furnish cash assistance and other services to needy dependent children and their parents or relatives with whom they are living. Both programs are State administered, with funding shared by the Federal and State governments.

Residence requirements for aliens

Length of residence is normally not a prerequisite for aliens to receive public assistance. In a 1971 case, the Supreme Court ruled that provisions of State law conditioning benefits on citizenship and imposing residency requirements for aliens violated the equal protection clause of the Constitution. The Court concluded that State residency requirements for aliens encroached upon the exclusive Federal power over aliens.

In June 1976 the Supreme Court in *Mathews* v. *Diaz*, 426 U.S. 67 (1976) decided that the Congress could make duration of residency a prerequisite for an alien's eligibility for public assistance. The Court, in upholding a 5-year residency requirement in the Medicare program—which provides health insurance for the aged—reasoned that the Congress has no constitutional duty

to provide all aliens the benefits provided to citizens. The Court added that:

"The decision to share * * * [the] bounty with our guests may take into account the character of the relationship between the alien and this country. Congress may decide that as the alien's tie grows stronger, so does the strength of his claim to an equal share of that munificence."

In its decision, the Court pointed out many ways in which citizens and aliens are treated differently.

There is no residency requirement in the SSI legislation specifically for aliens. An alien need only be lawfully admitted for permanent residency or residing under color of law.[1] SSI payments to aliens and citizens who are outside the United States for more than 30 days are stopped and are not resumed until they have been back in this country for 30 consecutive days. Consequently, aliens are not considered eligible for SSI until they have been in the United States for 30 days.

Previous GAO work

From 1973 through 1977 we reviewed a wide range of immigration matters. A series of reports based on this work (see app. I) pointed out the need for the Congress and executive branch agencies to totally reassess U.S. immigration policy to adequately cope with all immigration problems. One of these reports—issued in July 1975—discusses the need for curbing the adverse economic impact of newly arrived aliens receiving public assistance. In this report, we recommend that INS and the Department of State improve immigrant screening procedures and increase the use of public charge bonds. We also recommended that the Congress clearly define the term "public charge" and make sponsors' promises to support aliens legally binding.

Scope of review

We reviewed the Immigration and Nationality Act and the Social Security Act as they pertain to aliens who receive public assistance, and we examined the policies and procedures implementing the acts. We also interviewed State Department and INS officials responsible for immigration and SSA officials responsible for the SSI program.

We visited SSA and INS district offices in Illinois, California, and New York to obtain information on newly arrived alien SSI recipients and to review coordination between the two agencies in the field. SSA and INS helped us to estimate the number of newly arrived aliens and the magnitude of SSI benefits paid to them. We were able to make estimates in California, Florida, Illinois, New Jersey and New York.

CHAPTER 2: ALIENS RECEIVE PUBLIC ASSISTANCE NOTWITHSTANDING OBJECTIVE OF U.S. IMMIGRATION LAW

Although the Immigration and Nationality Act has provisions directed at preventing newly arrived aliens from receiving public assistance, including SSI, many receive assistance. We estimate that about 37,500 newly arrived aliens in five States receive about $72 million in SSI benefits annually. About $16 million of this is paid to refugees who are exempt from the act's public charge provisions.

Provisions against paying public assistance to aliens

Two Immigration and Nationality Act provisions are aimed at preventing newly arrived aliens from receiving public assistance. The first states that aliens are:

"* * * ineligible to receive visas and shall be excluded from admission into the United States * * * [if] in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, * * * [they are] likely at any time to become public charges * * *." (8 U.S.C. 1182)

The second provision provides that any alien in the United States:

"* * * shall, upon the order of the Attorney General, be deported * * * [if] in the opinion of the Attorney General, [he/she] has within five years after entry become a public charge from causes not affirmative shown to have arisen after entry * * *." (8 U.S.C. 1251)

Neither provision has successfully prevented newly arrived aliens from receiving SSI and other public assistance.

How many newly arrived aliens receive SSI benefits?

To determine the number of newly arrived aliens receiving SSI benefits, we asked SSA to review and give us selected information on aliens in its SSI quality assurance files for July 1 through December 31, 1976. These files represent a statistical sample of about 23,000 recipients selected randomly from about 4.2 million receiving benefits during this period. Of the recipients in the sample, 1,084 were aliens. It was determined from information at INS that 885 aliens had been in the United States more than 5 years and 199 were newly arrived. Based on this information, we estimate that about 214,000 aliens receive SSI, of which about 42,000 are newly arrived.

The newly arrived aliens in the sample resided in 25 of the 50 States. (See app. II.) However, a statistically reliable projection of the number of newly arrived aliens receiving SSI could only be made for California, Florida, Illinois, New Jersey, and New York, where 148 of the 199 aliens resided. The estimated annual SSI benefits paid, as shown in the following table, were projected based on the actual benefits paid to the 148 newly arrived aliens in these States.

State	Estimated number of newly arrived aliens receiving SSI	Estimated amount paid annually to newly arrived aliens (millions)
California	12,027	$31.6
Florida	12,342	19.5
Illinois	2,980	4.5
New Jersey	3,718	5.4
New York	6,444	11.3
Total	[1] 37,511	[1][2] 72.3

[1] We estimate that our statistics on the total number of newly arrived aliens in these States receiving SSI are accurate within plus or minus 6,787 and that the total amount of benefits paid aliens during this period is accurate within plus or minus $14,900,000 at the 95-percent level of confidence. These amounts include Federal SSI benefits and federally administered State supplementation.

[2] The public charge provisions of the Immigration and Nationality Act generally are not applied to refugees. Refugees currently residing in the United States are from Cuba, Vietnam, Russia, and other countries. We estimate that of the $72,000,000 in SSI benefits paid annually to newly arrived aliens, $16,000,000 (or about 22 percent) was provided to refugees.

How soon after arrival do they apply?

The brief period between when aliens enter the United States and when they apply for SSI further demonstrates that the act's public charge provisions are not effective. We estimate that 63 percent[1] of the newly arrived aliens receiving SSI in the five States mentioned above were in the United States for 1 year or less when they applied for SSI. The following table shows how soon after arrival these aliens applied for SSI benefits.

Length of time	Estimated number of newly arrived aliens receiving SSI between July 1 and Dec. 31, 1976	Percent of total	Cumulative percent of total
Less than 1 mo.	3,035	8	8
1 to 6 mo.	12,399	33	41
6 mo to 1 yr.	8,169	22	63
1 to 3 yr.	12,409	33	96
3 to 5 yr.	1,499	4	100
Total	37,511	100	

How many aged aliens entering the United States apply for SSI soon after arrival?

The public charge provisions of the Immigration and Nationality Act are ineffective in screening out aged (age 65 or older) aliens who may need SSI assistance soon after arrival in the United States. We estimate that 34 percent of the aged aliens who entered the United States during fiscal years 1973–75 were receiving SSI at the end of December 1976.

To determine how many of these aliens applied for SSI soon after entry, we compared INS figures on the number of aged aliens entering the United States with the estimated number receiving SSI. The estimates shown in the following table are based on the sample discussed on page 6.

Entry dates [1]	Aged aliens who entered the United States [2]	Estimated number receiving SSI [3]	Percent receiving SSI
July 1, 1972 to June 30, 1973	11,228	3,323	29.6
July 1, 1973 to June 30, 1974	11,042	5,025	45.5
July 1, 1974 to June 30, 1975	12,051	3,451	28.6
Total	34,321	11,799	34.4

[1] The information for this analysis was available only for these periods.

[2] Based on 1975 Annual Report: Immigration and Naturalization Service, p. 53.

[3] We did not determine the statistical reliability of these estimates.

Impact of newly arrived aliens on other public assistance programs

Our review was not directed at public assistance programs other than the SSI program. However, we reported to the Congress in July 1975[1] that newly arrived aliens received AFDC benefits. Also, because SSI and AFDC recipients are often eligible for Medicaid benefits, we believe that substantial Medicaid benefits are paid to newly arrived aliens receiving SSI and AFDC payments.

In our July 1975 report, we pointed out that newly arrived aliens were receiving AFDC, Old Age Assistance, and Aid to the Totally Disabled benefits. For example, of a randomly selected sample of alien welfare cases in Los Angeles County, 44 percent had applied for assistance within 5 years of entry into the United States. Sixty percent of them were AFDC recipients. We estimated that newly arrived aliens and their families were paid $19.6 million annually under these three programs in this county.

We did not review Medicaid benefits provided SSI and AFDC recipients nationally. However, we estimate that in California in fiscal year 1976, newly arrived aliens on SSI

[1] Aliens residing under color of law include those who entered the United States before July 1948 and refugees granted conditional entry after fleeing Communist countries because of persecution or fear of persecution due to race, religion, or political opinion or granted temporary residence for emergency reasons.

[1] This estimate is subject to an 8.8-percent sampling error at the 95-percent confidence level.

[1] "Need To Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law" (GGD-75-107, July 15, 1975).

received about $10 million in Medicaid benefits. This estimate is based on the average Medicaid cost for all SSI recipients in California.

CHAPTER 3: FAILURE TO HONOR SUPPORT AGREEMENTS IS PRIMARY CAUSE OF NEWLY ARRIVED ALIENS RECEIVING SSI

Most newly arrived aliens receiving SSI apply because their sponsors, who agreed in affidavits to provide necessary support and guaranteed that the aliens would not become public charges, do not fulfill their promises. Sponsors cannot be held liable because the courts have ruled that the support agreements are not legally binding.

Affidavits of support

Affidavits of support have been used since 1931 for aliens who wish to immigrate to the United States but lack sufficient means to support themselves here. The Department of State consular offices and INS obtain affidavits of support from persons will to sponsor aliens applying for permanent residency in the United States. In the affidavit, the sponsor states his reasons for sponsoring the alien and provides asset and income information to demonstrate that he can fully support the alien. Affidavits are used as evidence that the alien is not likely to become a public charge.

Department of State and INS officials do not have information on the number of affidavits accepted. However, one State Department official indicated that most aged and disabled aliens, such as those on SSI, are sponsored. He added that many could not qualify to immigrate without affidavits of support.

A review of INS files showed that most newly arrived aliens in the sample of SSI recipients required affidavits of support to qualify for permanent residency in the United States. Of the 199 newly arrived aliens in the sample, 37 were refugees who did not need affidavits of support. INS could not locate the files on 25 others. Of the remaining 137, 113 (about 82 percent) had affidavits on file at INS. Of the affidavits, 70 had been submitted by relatives, including aliens' children.

The affidavits of support are not being honored by sponsors of aliens on SSI. Various courts have ruled that the affidavits are unenforceable as contracts between the sponsor and the Government and are only moral obligations. These rulings were based on the fact that the Immigration and Nationality Act does not authorize any Federal executive or administrative official to require a contract of support. One court stated that, for the affidavit to be made legally binding, a statute would have to be enacted giving the sponsor notice that he is undertaking a legal obligation. In this court's opinion the statute would need well-defined limits on the amount, duration, and other conditions to be legally enforceable. Despite this, however, the State Department and INS continue to request affidavits of support.

The following are examples of newly arrived alien SSI recipients whose affidavits of support are not being honored.

A 76-year-old alien entered the United States in March 1977 and applied and became eligible for SSI benefits in April. Before she immigrated, her daughter and son-in-law had signed an affidavit of support promising she would not become a public charge. They cited a combined annual income of about $17,100 and a net worth of about $62,000 as evidence of their ability to provide support. The alien indicated on her SSI application that the daughter did not provide any financial assistance.

A 72-year-old alien and his 70-year-old spouse entered in November 1976. Their daughter and son-in-law signed an affidavit of support in October insuring the alien couple would not become a public charge. The couple applied for SSI less than 3 months after their arrival and began receiving monthly benefits of $338.08 in February 1977. The son-in-law stated at the time the couple applied for SSI that he had been supporting them but would stop doing so when they began receiving SSI benefits. The son-in-law discontinued assistance in March 1977, and as a result, the couple's SSI benefits were increased to $522 per month.

In July 1976 a 64-year-old alien entered the United States. His daughter signed an affidavit of support in which she cited an annual salary of $25,000 and assets valued at about $130,000. The alien applied for SSI in November 1976—four months after his arrival and 17 days before his 65th birthday. As of July 1977 the alien and his wife, who had immigrated earlier, were receiving SSI benefits of $557 per month.

Few newly arrived aliens are deported as public charges

Aliens are seldom deported as public charges even though many receive public assistance. Between 1971 and 1975, only 17 of the 93,009 aliens deported were deported as public charges.

In our July 1975 report, we stated that aliens were usually granted public assistance because of physical disabilities and inadequate resources existing before entry or because sponsors failed to honor their support agreements. We note that newly arrived aliens continue to receive public assistance for causes arising before entry. Of the 199 newly arrived aliens in the sample, 38 were disabled. We received medical information for 17 of the 38.[1] Twelve were receiving benefits because of disabilities arising before entry and five became disabled after entry.

In 1948 the Department of Justice's Board of Immigration Appeals, in accordance with court decisions, established that before deporting an alien who receives public assistance, a determination must be made by the Government that the assistance program requires repayment, a demand for repayment was made, and there was a failure to repay. Since the SSI program and other public assistance programs do not require a recipient to repay the Government for assistance provided, aliens are not deportable for receiving benefits under these programs.

CHAPTER 4: LEGISLATION RATHER THAN ADMINISTRATIVE IMPROVEMENTS NEEDED TO REDUCE ALIEN ELIGIBILITY FOR PUBLIC ASSISTANCE

Present legislation and applicable Department of State and INS procedures established to prevent newly arrived aliens from receiving public assistance are not effective. In addition, SSA's eligibility determinations for SSI do not fully consider all resources that an alien may own. Although certain administrative improvements may reduce the number of aliens receiving SSI, legislation is needed before any significant reduction can be realized.

Administrative improvements may reduce the number of newly arrived aliens receiving SSI

Administrative improvements—better screening of visa applications, more stringent income criteria for judging sponsors' ability to provide support, and more comprehensive SSI eligibility reviews—could prevent some newly arrived aliens from receiving SSI.

Improved Screening

In our 1975 report (see p. 8), we concluded that better screening of aliens' visa applications could help reduce the number of aliens likely to need public support. In our opinion, improvements in the application screening process are still needed. Newly arrived aliens continue to apply for SSI because of conditions existing before they enter the United States.

The following are examples of newly arrived aliens who appeared likely to become public charges when applying for entry.

In August 1976, a naturalized citizen requested and was granted approval to have her mother, father, 6 brothers, and 2 sisters admitted to the United States. A sister and a brother, aged 29 and 36, respectively, indicated that they did not work, and a 16-year-old brother said he was a student. These three underwent medical examinations before entry and were found to have a progressive spinal disease which paralyzes the lower extremities and limits the use of the upper extremities. The younger brother entered the United States in September 1976; his brother and sister entered in November. In December all three applied for SSI as disabled individuals, stating that they never worked; had no cash, income, or resources; and were living with their father, mother, and other brothers and sisters. From February through July 1977 the three received SSI payments totaling $3,086.71, and currently they are receiving $349.17 monthly.

A 68-year-old alien entered in June 1976. She applied for SSI 9 days after her arrival and began receiving benefits of $220.07 a month in July. Her monthly benefits were later increased to $257.07, retroactive to July, when a medical examination verified that she was legally blind.

Deciding whether an applicant is likely to be supported at public expense is difficult and involves considerable subjective judgment. The consular officer must consider many factors other than the alien's potential earning capacity, including the intent of the alien and his sponsor. Despite these difficulties, we believe improved screening can reduce the number of newly arrived aliens receiving SSI.

A State Department official said that making management improvements that reduced consular officers' routine administrative workload and increasing the number of consular officers have helped improve screening. While agreeing that there is still room for improvement, the official believed most aliens who receive SSI do so because sponsors fail to provide support. In his opinion, improved screening would not solve this problem.

More Stringent Income Criteria Needed

The criteria used by the State Department and INS to evaluate a sponsor's ability to provide financial support do not exclude some sponsors who have limited income and probably cannot provide adequate support. The State Department and INS use the Department of Health, Education, and Welfare's Community Services Administration "Income Poverty Guidelines" as criteria for evaluating a sponsor's ability to provide support. These guidelines provide national income levels below which families are considered in poverty.

The following are examples of sponsors the State Department judged capable of providing support using the guidelines but whose income does not appear sufficient to provide adequate support.

A 65-year-old alien entered in March 1976. The alien's 35-year-old daughter, a legal permanent resident, had previously signed an affidavit of support indicating that she had two dependents, earned $100 per week as a housekeeper, and had a savings account balance of $639.46. According to then-current guidelines, a non-farm family of four (including the alien mother) should have an annual income of $5,050 in the continental United States. The alien applied for SSI less than 3 months after arrival and began receiving monthly benefits of $206.44 effective May 1976. If the daughter had provided equivalent support, she would have had $227 a month for supporting herself and her two

[1] Of the other 21 cases, 12 were converted from State grant-in-aid programs when the SSI program began in 1974 and sufficient medical information was not on file at SSA to determine when the disability arose, 6 could not be found, 1 lacked sufficient information to make a determination, and 2 were not traced.

dependents, which is $126 a month below the income poverty level for a nonfarm family of three.

A 66-year-old alien and his 69-year-old spouse entered in July 1976. An affidavit of support signed in November 1975 by their immigrant daughter stated that she had an annual salary of $7,654 and a savings account balance of $1,027. The affidavit also indicated that she had four children who depended on her as their sole or principal means of support. According to then-current guidelines, a nonfarm family of seven (including the alien couple) should have an annual income of $7,510 in the continental United States. The alien couple applied for SSI about 4 months after their arrival and began receiving monthly benefits of $514.50 effective November 1976. If the daughter had provided equivalent support, she would have had $123 per month for herself and her four children, which is $366 a month below the income poverty level for an onfarm family of five.

If the State Department and INS used more stringent income criteria that took public assistance benefit levels into account, we believe aliens in such circumstances would be judged likely to become public charges and would be denied entry. This would reduce the number of newly arrived aliens that need public assistance, but it would not solve the problem of sponsors with adequate resources who fail to honor their support agreements.

State Department officials admitted that more stringent income criteria were needed. However, they said that attempts to develop such criteria have been complicated by the varied amounts of public assistance provided by Federal, State, and local governments.

Failure To Disclose Overseas Assets

In several cases aliens had failed to disclose to SSA overseas assets that might have disqualified them for SSI. Individuals with more than $1,500 (and couples with more than $2,250) of countable resources are ineligible for SSI. The following are examples of aliens receiving SSI who had assets exceeding those standards.

A 68-year-old alien entered the United States in March 1976. He applied for SSI benefits and began receiving monthly payments of $206.44 effective May 1976. In March, in a sworn statement on his visa application to the American embassy, he indicated that he had real estate overseas worth about $13,000. When applying for SSI benefits less than 2 months later, however, he stated that he did not have any property and had not sold property to any person during the previous 12 months.

A 71-year-old alien entered in December 1976 and applied for SSI in February 1977. She received $226 per month in February and March and began receiving benefits of $276 per month in April. In a written statement made in conjunction with her SSI application, she indicated that she had come to this country with only $800 and had $400 left. She also said that she had not given away any money or sold any property during the previous 12 months. However, about 5 months earlier she had submitted a sworn statement to an American consul indicating she had overseas bank deposits of approximately $8,200.

Information on overseas assets of aliens is contained in INS files. Although the Social Security Act authorizes access to these files for verification purposes, SSA district offices do not routinely request overseas asset information. As a result, aliens with overseas assets exceeding the SSI resource standards may be receiving SSI benefits.

We could not statistically estimate how much in SSI benefits is paid to newly arrived aliens who have assets exceeding the SSI resource standards. However, after we brought this matter to SSA's attention, it began including resource information from INS on selected alien SSI recipients as part of its ongoing review of the SSI program. An SSA official told us that if the results indicate overseas assets are significant, INS files would be reviewed routinely for newly arrived aliens who apply for SSI.

Limited use of public charge bonds

When a question exists about the likelihood of a visa applicant becoming a public charge, admission to the United States may be granted if a bond is posted. The bond can be used to reimburse public funds spent if the alien becomes a public charge. In our July 1975 report, we pointed out that consular and INS officers rarely required bonds because they were (1) viewed as an undue hardship for many aliens and their sponsors, (2) seldom collected, and (3) administratively time consuming. We recommended that the Attorney General and Secretary of State require bonds for every visa applicant for whom a reasonable doubt existed about whether he or she would become a public charge.

According to INS officials, public charge bonds still are not frequently used because they are difficult to administer. They believed that using bonds was much less desirable alternative than making the affidavit of support a legally enforceable contract. INS and State Department officials recognize that bonds could be useful when an affidavit of support or an applicant's planned employment in the United States may not be sufficient to fully protect the Government's interest; however, they believed the use of bonds should be the exception rather than the rule.

Bonds may still serve a useful purpose in cases in which reasonable doubt exists about the likelihood of a visa applicant becoming a public charge. We believe, however, that legislation of the type discussed below is needed before any significant impact will be made in preventing newly arrived aliens from becoming eligible for public assistance.

Legislative proposals for reducing the number of aliens receiving SSI

Several bills have been introduced in the 95th Congress to reduce newly arrived aliens' eligibility for public assistance. For purpose of discussion these legislative proposals can be grouped as follows:

Establish residency requirements for SSI and other federally funded assistance programs except when eligibility results from causes arising after entry.

Make the sponsor's affidavit of support a legally enforceable contract and define "public charge" in the Immigration and Nationality Act as a recipient of public assistance.

Consider sponsors' income and resources in determining an alien's SSI eligibility.

Establishing Residency Requirements

There is no residency requirement for aliens to be eligible for SSI. Aliens can receive SSI benefits within 30 days of arrival. In our view a residency requirement would be the best way of preventing large expenditures of SSI funds for newly arrived aliens.

Several bills would require 1 to 5 years residency in the United States before an alien could qualify for SSI benefits. The residency requirements, however, generally would not be applicable if the alien became eligible for SSI from causes arising after entry.

The only program authorized under the Social Security Act that has an alien residency requirement is the Medicare Supplemental Medical Insurance program. Under this program lawfully admitted aliens who are 65 years of age or older would be denied benefits unless they had been in the United States for at least 5 years. According to SSA, it could enforce a similar 5-year residency requirement for the SSI program without an increase in administrative costs. However, some added cost may result because of the need to determine whether an alien was eligible for SSI based on causes arising after entry.

Legalizing The Affidavit of Support and Defining a Public Charge

Pending legislation would make the affidavit of support legally binding on the alien's sponsor and would define a public charge as an alien who receives public assistance. The affidavit would be enforceable as if it were a contract between the United States and the sponsor, and the Federal, State, and local governments could recover any public assistance provided to an alien. In addition, the present repayment test for a public charge, which precludes deportation for receipt of most forms of public assistance, would no longer be applicable. We, INS, SSA, and the Department of State believe that these two legislative changes are necessary to reduce the likelihood of newly arrived aliens receiving public assistance.

Considering sponsors' income in determining SSI eligibility

The Social Security Act requires that:

Income and resources of an applicant's spouse living in the same household be considered when determining SSI eligibility and benefits for a married applicant.

Income and resources of an applicant's parents living in the same household be considered when determining SSI eligibility and benefits for an applicant under age 21.

Proposed legislation contains a similar provision which would require that a sponsor's income and resources be considered when determining an alien's SSI eligibility.

SSA believes that the proposed provision will cause administrative difficulties. According to SSA:

"The provisions of present law which require the deeming of income from one person to another apply only in certain cases where the SSI recipient lives with the person from whom income is deemed (usually a spouse or parent). This would not necessarily be the case for the alien and the sponsor. We would have to consider the income and resources of a sponsor who could live very distant from the alien. Also, if the sponsor refused to furnish information concerning his income and resources, the alien could be disadvantaged for actions beyond his control."

We believe that considering a sponsor's income and resources would not be an effective method of reducing public assistance payments to newly arrived aliens. Imposing a residency requirement, making the affidavit of support enforceable, and defining public charge would more effectively resolve the problem.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

Conclusions

Restrictions in the Immigration and Nationality Act and the Social Security Act are not preventing newly arrived aliens from receiving public assistance. This is evidenced by the large sums of money paid to newly arrived aliens under the SSI and other public assistance programs.

In most cases, aliens apply for SSI because their sponsors, who promised in affidavits of support to keep them off public assistance, do not keep their promises. The sponsors cannot be forced to pay for assistance because the courts have ruled that the affidavits are unenforceable moral commitments.

Newly arrived aliens are seldom deported as public charges even though many receive public assistance for causes that arose before entry. Because of court rulings and Department of Justice decisions, aliens are deportable as public charges only if such assistance is not repaid on demand. However, repayment is not required under the SSI program and other assistance programs.

Better screening of visa applicants, stricter income criteria for judging the ability of the sponsor to support the alien, and increased coordination between INS and SSA on aliens' overseas assets may reduce the number of newly arrived aliens receiving SSI SSA is obtaining and reviewing asset information from INS on selected cases in which aliens receive SSI to determine the practicality of routinely obtaining this information for all aliens applying for SSI.

Several bills have been introduced in the 95th Congress that would strengthen the Government's ability to prevent many newly arrived aliens from receiving public assistance, including SSI benefits. We believe legislation is needed before any significant reduction in public assistance to newly arrived aliens can be achieved.

Recommendations to the Secretaries of State and Health, Education, and Welfare

We recommend that the Secretary of State:

In cooperation with the Secretary of Health, Education, and Welfare, develop more stringent income criteria for judging the ability of a sponsor to support a visa applicant. These criteria should take into consideration established welfare benefit payment levels as well as the Community Services Administration income poverty guidelines.

Emphasize to consular officers the importance of screening aliens who may apply for public assistance.

We recommend that the Secretary of Health, Education, and Welfare direct the Commissioner of Social Security to report to the Congress the results of its review on obtaining aliens' overseas asset information from INS and the future application of this mechanism for reducing aliens' eligibility for SSI benefits.

Recommendations to the Congress

We recommend that the Congress enact legislation:

Establishing a residency requirement to prevent assistance payments to newly arrived aliens, if the condition upon which eligibility is established existed before entry.

Making the affidavit of support legally binding on the sponsor.

Making aliens subject to deportation if they receive Federal, State, or local public assistance because of conditions existing before entry by defining public charge to include receiving any public assistance, regardless of whether repayment is required.

APPENDIX I: GAO REPORTS TO THE CONGRESS ON IMMIGRATION MATTERS

Title, reference number, date:

Impact of Illegal Aliens on Public Assistance Programs: Too Little Is Known, GGD-78-20, December 1, 1977.

Domestic Resettlement of Indochinese Refugees—Struggle for Self-Reliance, HRD-77-35, May 10, 1977.

Immigration—Need to Reassess U.S. Policy, GGD-76-101, October 19, 1976.

Smugglers, Illicit Documents and Schemes Are Undermining U.S. Controls over Immigration, GGD-76-38, August 30, 1976.

Evacuation and Temporary Care Afforded Indochinese Reguees—Operation New Life, ID-76-63, June 1, 1976.

Need to Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law, GGD-75-107, July 15, 1975.

U.S. Provides Safe Haven for Indochinese Refugess, ID-75-71, June 16, 1975.

Review of Preliminary Estimates of Evacuation Costs, Temporary Care and Resettlement Costs of Vietnamese and Cambodian Refugees, ID-75-68, May 27, 1975.

Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States, GGD-75-9, February 4, 1975.

More Needs to Be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States, B-125051, July 31, 1973.

APPENDIX II: STATE OF RESIDENCE FOR NEWLY ARRIVED ALIEN SSI RECIPIENTS IDENTIFIED IN QUALITY ASSURANCE SAMPLE

California (note a), Massachusetts, Oregon, Delaware, Michigan, Pennsylvania, Florida (note a), Minnesota, Rhode Island, Hawaii, Missouri, Virginia, Iowa, North Dakota, Vermont, Illinois (note a), New Jersey (note a), Washington, Indiana, Nevada, Wisconsin, Kansas, New York (note a), Louisiana, Ohio.

APPENDIX III: PRINCIPAL OFFICIALS RESPONSIBLE FOR ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT

(Tenure of office)

Department of Justice

Attorney General of the United States:

Griffin B. Bell, from Jan. 1977 to present.

Richard L. Thornburgh (acting) from Jan. 1977 to Jan. 1977.

Edward H. Levi, from Feb. 1975 to Jan. 1977.

William B. Saxbe, from Jan. 1974 to Feb. 1975.

Commissioner, Immigration and Naturalization service:

Leonel Castillo, from Nov. 1976 to present.

Leonard F. Chapman, Jr. from Nov. 1973 to Nov. 1976.

Department of State

Secretary of State:

Cyrus Vance, from Jan. 1977 to present.

Henry A. Kissinger, from Sept. 1973 to Jan. 1977.

Department of Health, Education, and Welfare

Secretary of Health, Education, and Welfare:

Joseph A. Califano, Jr., from Jan. 1977 to present.

David Mathews, from Aug. 1975 to Jan. 1977.

Caspar W. Weinberger, from Feb. 1973 to Aug. 1975.

Commissioner of Social Security:

Donald I. Wortman (acting), from Dec. 1977 to present.

James B. Cardwell, from Sept. 1973 to Dec. 1977.

Mr. MAGNUSON. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. MAGNUSON. The Senator is on the right track. The Appropriations Committee cannot do anything about this. It is an entitlement and therefore subject to legislative review.

Mr. PERCY. Absolutely.

Mr. MAGNUSON. We cannot do anything about it. It is there. It is an entitlement.

Mr. PERCY. I can well remember when the Senator from Illinois served on the Appropriations Committee. Constituents would say, "Why don't you do something about this?" I can sympathize with the distinguished Senator from Washington. To the chairman of the Appropriations Committee, one of the most powerful positions in the Government, President pro tempore of the U.S. Senate, I would direct the question: How much power does the Senator have to change a program to right a wrong, if it is an entitlement program? By law, it cannot be changed. Those who have taken full advantage of the loophole are eligible to receive benefits and HEW must comply.

Mr. DOLE. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. DOLE. The Senator from Illinois knows that at 11 o'clock we go to other business. It is almost 11 o'clock.

Mr. President, this amendment, in conjunction with the provisions in the bill which requires aliens to reside in the United States for 3 years before becoming eligible for SSI benefits, will correct a situation which has outraged the American public for several years. It assures that the financial responsibility for the alien remains on the shoulders of the sponsor where it belongs rather than being allowed to be transferred to the backs of the taxpayers.

There is no reason for American taxpayers to have to provide a tax-free, 100 percent Government-funded pension to aliens who have been in this country for only 30 days and contributed little or nothing to the economy. The burden of Government programs, in terms of inflation and taxation, on our own citizens is nearing the unbearable. So, if we are going to spend these dollars, they should not be spent on short-term aliens. Better still, we should save these dollars and give our taxpayers a break.

There are ample protections provided in the amendment for aliens and sponsors alike to preclude undue hardships, and I urge my colleagues to support the amendment.

Mr. President, I support the amendment. I think there will be a question of adding it to this provision because of jurisdictional problems. I know that Senator METZENBAUM, of the Judiciary Committee, has a problem with that. On the other hand, I do not believe it is out of order to offer it. It seems to me it is a step in the right direction. It goes a little further than what we may have to consider in the Finance Committee.

I commend the Senator from Illinois for his efforts.

Mr. PERCY. I thank the Senator.

Mr. METZENBAUM. Will the Senator yield?

Mr. PERCY. Before yielding, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. BAYH. Will the Senator yield?

Mr. PERCY. I yield to the distinguished Senator from Indiana.

Mr. BAYH. We are very short of time here. I know the Senator feels very strongly about this. I concur with the goal he is trying to accomplish.

There have been no hearings on this, I understand. It is a matter in the jurisdiction of the Committee on the Judiciary which, as the Senator from Kansas points out, does not preclude the Senator from Illinois, as a Member of this body, from introducing it or pursuing it.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished

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* The number of newly arrived aliens receiving SSI was projected for these States.

business, H.R. 3119, which the clerk will state.

Mr. BAYH. Mr. President, may the Senator from Indiana ask unanimous consent to have 2 minutes so we can resolve this so that, perhaps, when we come back, we can have something that we can work with?

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

Mr. PERCY. Will my distinguished colleague yield for one comment, because I know he has an amendment he would like to offer?

Mr. BAYH. Yes; I yield.

Mr. PERCY. Would it be possible for him to find out from the manager of the bill when this bill will next be on the floor, so that both our amendments can be taken up at that time?

Mr. DOLE. I hope on Friday. Maybe we can find another little window somewhere along the line if there should be an extended debate on the so-called windfall tax.

Mr. PERCY. Could it be the pending business, at the opening of business? Could we check with the majority and minority leaders to find out if that is possible? I know we would like to have some idea as to when we will come back to this amendment. I deeply appreciate the Senator's letting my amendment go ahead.

Mr. DOLE. I think the pending business would be the Percy amendment, but I am not certain. I shall be happy to check with the chairman of the committee. We would like to finish it up on Friday, if we have a couple of hours on Friday.

Mr. PERCY. Would it be possible to have unanimous consent that, following the disposition of the Percy amendment, the Bayh amendment would be in order?

Mr. BAYH. That is fine. I am not insisting on that. Why do we not, off the record, find out what is behind the scenes and how long the new pending business is going to take and find some time that will be convenient to everybody involved?

I salute the Senator from Illinois. I hope we can give a little attention between now and when it comes up again to one of the concerns I have as to whether this is really going to be enforceable, because a person makes an affidavit and then they are subject to liability, under the Senator's amendment. But if they do not have any money in the first place, then it seems to me they are on the same grounds as the alien is and, in the meantime, the alien continues in the country. Maybe there is nothing we can do about that, but could we just give a little attention to it?

I think the problem pointed out by the Senator from Illinois is a real problem and I would like to help resolve it.

CUT SOCIAL SECURITY PROTECTION

● Mr. KENNEDY. Mr. President, the social security disability amendments which the Senate is now considering have many important and worthwhile provisions. But I believe that it is important for my colleagues to focus on the highly controversial provisions of the bill as well—provisions which will take away social security protection which workers have built up over the years through their past earnings and contributions. According to the Congressional Budget Office, the bill cuts social security benefits for disabled workers with eligible dependents by an average of 10 to 15 percent.

Let us look at the impact of this bill on, for example, a young family consisting of a worker aged 40, two young children, and a mother. Assume that the worker has been earning average wages—now about $250 a week—throughout his career under social security and that he became totally disabled last October in an automobile accident. Under present law, this family would receive social security benefits beginning for the month of April 1980 of about $184 a week. This is hardly an excessive amount for this family of four to live on. But under H.R. 3236, as recommended by the Senate Finance Committee, the benefits to this family would be cut to about $161 a week. Had this same worker been unfortunate enough to have been unemployed for 5 years out of the last 20, his benefits would have been cut from $184 to about $146 a week by this bill. A worker in this situation may very well have already been told that he would be getting the $184 rate next spring, that he could count on these payments as long as his total disability continued. But if this bill passes, the Government will be telling this family: "Oh no, the Congress of the United States and the President have changed their minds. They thought that this amount was too much and they just passed a law reducing the benefits that you paid for and expected to get."

Mr. President, social security is a contributory social insurance system. Millions of workers like the one I have described have been building protection for themselves and their families with their payments into the system and with the matching payments of their employers. If we cut social security benefits in this fashion—if we change the rules in the middle of the game, we will be undermining the people's faith in our entire social security system and in the promises of Government itself.

Cutbacks in social security benefits for disabled people, along the lines of this bill, were recommended by the Carter administration in the budget submission earlier this year. I criticized that proposal at the time, and in April, Senator CHILES and I joined in an effort to restore social security program outlays for the next 3 fiscal years. I said then, and I repeat now, that "we are talking about the most vulnerable groups in our society. We are talking about the disabled, we are talking about the elderly, we are talking about the orphans who are covered by the social security system."

Although the Senate Finance Committee bill is in some respects more generous than the administration's proposal and in some respects less so, this is basically a bill to carry out the President's recommendations to cut social security protection. Those recommendations were in part an attempt to reduce the deficit in the unified budget, even though social security is self-financed by the contributions of workers and their employers.

Mr. President, this is no way to try to balance the budget. We are dealing with a self-financed system. According to the latest report of the board of trustees, the disability insurance portion has more than adequate funding for the next 75 years, the period over which actuarial estimates are made. In other words, the contribution rates scheduled in the law are more than enough to pay fully for the benefits in present law and for all administrative expenses.

Proposals to reduce social security protection are, to say the least, highly controversial. The provisions in this bill which would cut social security protection are strongly opposed by a large number of individuals and national organizations who feel strongly that when people have paid for protection under social security, it is not fair or equitable to suddenly reduce that protection. A partial listing of those opposing this bill follows:

PARTIAL LISTING OF ORGANIZATIONS AND INDIVIDUALS OPPOSING H.R. 3236

Wilbur D. Mills, Honorary Chairman, SOS Coalition.
Wilbur J. Cohen, Chairman, SOS Coalition, Former Secretary, DHEW.
Robert Ball, Former Social Security Commissioner, Kennedy, Johnson, Nixon Administrations.
William Mitchell, Former Social Security Commissioner, Eisenhower, Kennedy Administrations.
Charles Schottland, Former Social Security Commissioner, Eisenhower Administration.
John J. Corson, Former Director, Social Security Bureau of Old Age and Survivors Insurance, Roosevelt Administration.
Samuel Crouch, Former Director, Social Security Bureau of Disability Insurance, Eisenhower, Kennedy, Johnson, Nixon and Carter Administrations.
Elizabeth Wickenden, Consultant on Social Policy.
Merton Bernstein, Walter D. Coles, Professor of Law, Washington University.
Lane Kirkland, President, AFL–CIO.
Douglas Fraser, President, United Automobile Workers.
William Winpisinger, President, International Association of Machinists.
Jerry Wurf, President, American Federation of State, County and Municipal Employees.
American Coalition of Citizens with Disabilities.
American Association of Workers for the Blind.
Blinded Veterans Association.
National Association for Retarded Citizens,
Multiple Sclerosis Society.
Disabled American Veterans.
National Conference of Catholic Charities.
Ad Hoc Coalition of Aging Organizations.
American Association of Retired Persons/National Retired Teachers Association.
Asociacion Nacional Pro Personas Mayores.
Concerned Seniors for Better Government,
National Council of Senior Citizens.
Gerontological Society.
Gray Panthers.
National Student Lobby.
Legal Research and Services for the Elderly.
National Urban League.
National Association of Area Agencies on Aging.
Paralyzed Veterans of America.
National Association of Mature People.
National Education Association.
National Association of Retired Federal Employees.
National Federation of Settlements and Neighborhood Centers.
National Association of State Units on Aging.

National Consumers League.
National Caucus on the Black Aged.
National Association for Public Continuing and Adult Education.
National Council on Aging.
National Council of Negro Women.
National Association for the Advancement of Colored People.
A Phillip Randolph Institute.
National Center for Community Action.
American Association of Community and Junior Colleges.
Lutheran Council in the United States.
American Cancer Society.
Mental Health Law Project.
Environmentalists for Full Employment.
Americans for Indian Opportunity.
Food Research Action Center.
International Center for Social Gerontology.
Consumer Federation of America.
William D. Bechill, Ph.D., Professor of Social Work.
Clavin Fields.
Center for Community Change.
Center for Economic Alternatives.
U.S. Catholic Conference.
Coalition for Labor Union Women.
Women's Equity Action League.
American Nurses Association.
Workmen's Circle.
Americans for Democratic Action
United Methodist Church.
American Foundation for the Blind, Inc.
Board of Church and Society.
Rural America.
American Jewish Committee.
Service Employees International Union, AFL-CIO.
American Association of Homes for the Aging.
National Organization for Women.
Metropolitan New York Council on Jewish Poverty.
National Indian Council on Aging.
National Senior Citizens Law Center.
United Auto Workers Retired Members Department.
Urban Elderly Coalition.
Western Gerontological Society.
Older Women's League Educational Fund.
Senior Citizens Task Force of Washington, D.C.
National Farmers Union.
United Cerebral Palsy Associations.

Mr. KENNEDY. I am sure more groups would be opposed to these cuts in social security if more knew about them. And there certainly would be millions of Americans opposed if they knew about them. They will know when this bill passes.

Additionally, the new cap or maximum family benefit in this bill is opposed by the statutory Advisory Council on Social Security, which will issue its final report on December 7. The reductions are also opposed by many distinguished social security experts including Wilbur J. Cohen, former Secretary of Health, Education, and Welfare; former Commissioner of Social Security Robert Ball; former Commissioner of Social Security Charles Schottland; former Commissioner of Social Security William Mitchell; and one of the first directors of our national social insurance system, John Corson.

My point is not, Mr. President, that there is no support for this bill. There is. The Carter administration supports it; the House of Representatives passed a similar measure; and the distinguished Senate Committee on Finance is recommending it to you. My point is simply that those provisions in the bill which cut social security protection are highly controversial; I believe that they are not necessary and they are not desirable. They are also opposed by many organizations and individuals, and should not be so quickly embraced by the whole Senate.

This is watershed legislation. If social security protection toward which people have paid can be so suddenly taken away, what protections are safe? What about other reductions in social security benefits that the President has recommended? Or others that he has not yet recomended but might in the future? What about reductions in civil service benefits? What about veterans' benefits? It is a very serious matter when the Congress of the United States votes to take away protection which people have considered to be theirs as a matter of right—a right which they have paid for out of their own wages.

The Senate Finance Committee has combined these highly controversial provisions with some good things. A liberalizing bill on the supplemental security income program for the needy came from the House as a separate measure, and it should be passed. There is nothing about the supplemental security income bill that requires that it be combined with the measures reducing social security protection. We should separate the supplemental security income provisions from the social security cuts and pass them.

Even the social security bill which came from the House has some good features in it, involving various changes which would have the effect of encouraging some people now drawing benefits to try to obtain work. I support these provisions, but recognize that in reality they will apply to relatively few people. Most social security beneficiaries are so disabled that it is extremely unlikely they will ever work again. One-half the social security beneficiaries receiving disability benefits are over 55 years old, and three-fourths are over 50 years old. They have all been found to be totally disabled for any substantial gainful activity.

We are not dealing here with the liberal disability provisions that come to your attention in newsstories and letters about people who have been found disabled for a particular occupation such as policeman or fireman, or an officer in the military, or a civil servant. We are dealing with people totally disabled for any substantial gainful activity.

Although most social security disabled beneficiaries will not return to work because they are unable to work, it is nevertheless highly desirable that all those who can be rehabilitated, and for whom jobs can be found, be encouraged to work. That is why I support those features of the bill which reduce the risks inherent in a beneficiary's decision to attempt to return to work. For example, the bill provides that the cost of necessary care by an attendant and other necessary work expenses relating to the impairment should be deductible from the earnings used to determine whether a person is engaging in substantial gainful activity. This is a highly desirable change.

The bill provides that disabled persons whose benefits are terminated because they have earnings in excess of the substantial gainful activity level, nevertheless would have their benefits automatically reinstated if their earnings fall below the substantial gainful activity level within the next 12 months. The bill provides further that a disabled worker who stops receiving cash disability benefits because of a return to work would continue to get medicare benefits for 3 full years as long as he continued to have the same degree of physical or mental impairment. These are good changes and there are others. However, we should not be misled. Removing penalties for taking jobs will not make it possible for most disabled beneficiaries to work, and it will not produce jobs. For the overwhelming majority of these disabled social security beneficiaries, those who will not be able to work, it is of first importance that benefits for them and their families be adequate.

There is one of the kinds of incentive for return to work in this bill that I do not support. Part of the reasoning behind the benefit cuts in H.R. 3236 is that if totally disabled people are given lower benefits, they will try harder to get work. This is using buckshot to kill a mosquito. I say it is inhumane to cut the benefits of the great majority of the disabled and their families who cannot work—to make benefits even less adequate than they are today—in the hope of increasing the motivation of a few who might be driven to greater work-seeking effort to make benefits even less adequate than they are today.

One reason that has been given for cutting back on this social security protection is that there has been an increase in the number of disability benefits awarded. This may have been true in the early 1970's. It is not today. Without any cut in the protection furnished by the program, the number of disability applications approved peaked in the year 1975 and has decreased ever since. And the decreases are not small. In 1975 the number of approved claims was just under 600,000. In 1978, the number was under 460,000, a 23-percent decrease. It now appears that the number approved for 1979 will be even lower, around 420,000. So it can hardly be argued that it is necessary to cut the amount of disability benefits because of increases in the number of awards.

The 1979 trustees' report greatly lowered their long-range estimates of the incidence of disability. It thus appears that in making these recommendations for disability cuts, the administration and the Finance Committee were addressing a problem, if it really was a problem, that has already been solved.

There is one other result of this bill which I would like to call to the attention of the Senate. A reduction in benefits for social security recipients will put more people on the supplemental security income rolls and will require States that make supplemental payments to supplemental security income to spend more money than they now do. There will also be an increase in State medicaid costs as a result of cutting social security.

In other words, the bill provides for a shift from Federal funding to State funding. I think this, too, is unwise.

We may be told that we cannot have the good parts of this bill without the benefit cuts. We may be told that the good parts cost money, and to get the money you have to cut benefits. But this is strange reasoning in a self-financed social insurance system which has a surplus under the contribution schedule in the present law. According to the best estimates available, there is plenty of room to allow the relatively minor costs of the good provisions of the bill without accepting benefit cuts. The removal of the disincentive to work is estimated to cost 0.02 percent of payroll in the long run, and the disability program is estimated to have a surplus of 0.21 percent of payroll over the long run—a surplus more than 10 times the cost of the improvements in this bill.

We get into a line of reasoning about the need to cut benefits in order to afford the improvements only when we choose to forget that the social security system is an independently financed program. And a solvent one, at that. It is protection for which workers and their employers pay.

The proposals to cut back on social security protection embodied in this bill have been underrated in both scope and importance. I believe they are entirely unjustified.

Mr. President, I would urge that sections 101 and 102 of title 1 be deleted from H.R. 3236. Unless these sections are dropped, the entire bill should not be enacted.●

● Mr. BELLMON. Mr. President, I have some serious reservations about H.R. 3236, the Social Security Disability Amendments of 1979, which the Senate began to consider this morning. My concern, Mr. President, is that the Finance Committee's reported version of H.R. 3236 would save only $0.9 billion over the next 5 years, which is less than one-half of the $2.1 billion savings which would be achieved by the corresponding House-passed bills (H.R. 3236 and H.R. 3464). If we pass H.R. 3236 as it now stands, we will miss a chance to bring about greater reforms and more dollar savings. Mr. President, the committee's bill simply does not go far enough in achieving the reforms this program badly needs.

The disability insurance component of social security now costs more than 10 times as much as was estimated when the program began in the 1950's. The program has nearly doubled in costs since 1975. Opportunities exist for achieving significant savings, by tightening administration and adjusting benefits so that windfalls do not occur and work disincentives are lessened.

The House-passed bills reflect a very moderate, restrained approach to controlling costs in disability programs. During the House debate on H.R. 3236, proponents admitted that there existed opportunities for even greater savings in the disability insurance program without harming those who are in real need of disability benefits. The House bill was reported out of the Ways and Means Committee unanimously, Mr. President, even though amendments which would have saved substantially more money were defeated in the committee by only one and two vote margins.

The Finance Committee has decided, unfortunately in my view, that more than half of the modest savings achieved in the House bill will be foregone. Specifically, the Finance Committee has raised the cap on family benefits and thereby eliminated savings of about $600 million over the next 5 years. This change, together with other smaller ones, result in the committee's bill saving a cumulative total of about $1.2 billion less than the House bill during the fiscal year 1980 to fiscal year 1984 period.

Mr. President, I feel the Senate bill should save at least as much as the House bill. I therefore plan to offer a motion to recommit this bill to the Finance Committee with instructions to report back to the Senate by February 15, 1980 a revised bill that will produce savings at least as great as those the House-passed bills would provide.

In the event my motion to recommit fails, I plan to offer four amendments making specific changes in the reported bill. These amendments will increase the level of savings, provide better work incentives, and make administrative improvements.

My first amendment will provide a cap on family benefits at the lower of 80 percent of averaged indexed monthly earnings (AIME) or 130 percent of the worker's primary insurance amount (PIA). (The committee's bill would put the cap at 85 percent of AIME or 160 percent of PIA). This change will save about $2 billion more than the Finance Committee's proposal over the next 5 years. The 130 percent of PIA instead of the committee's 160 percent cap will not affect those at the lower end of the income scale but rather those whose predisability earnings were in the higher income brackets.

The Finance Committee has published data showing that 60 percent of families with children who receive disability insurance have other income. Many of these families also receive other benefits such as food stamps, AFDC, SSI, housing subsidies and medicaid.

This amendment was offered in the Ways and Means Committee and lost by only two votes. It is a fair and reasonable amendment to provide disabled benefits while helping to insure they do not receive more income than when they were working. This amendment would not cut benefits of people already on the disability rolls, it would affect only persons whose claims are approved in the future.

My second amendment provides for the consideration of vocational factors in determining an individual's disability status only for applicants who are over age 55. This amendment will affect only those applying for benefits in the future, and will have no impact on those cases which have already been decided. The inclusion of vocational factors in disability determination was not in the original disability insurance program. It was one of the liberalizations of the program which led to the rapid growth of program costs. The use of vocational factors produces ambiguity in determining who should become a beneficiary. It seems to me unnecessary to consider these factors for applicants under age 55 since these persons are still young enough to be retrained or relocate to areas where there are jobs for which they can qualify.

This amendment was also offered in the House Ways and Means Committee and lost by one vote. According to CBO estimates, the amendment would achieve a total savings of about $988 million by 1984. The administration of the program would also be improved because of the reduction in the number of appeals in which vocational factors have to be considered.

The third amendment I will offer relates to the hearings and appeals process in the program. Currently, a claimant may include new evidence on his disability until all stages of administrative review have been appealed. This is the so-called "floating application" process. A person can keep building on his case beyond the point at which he has introduced it. The person is granted disability status retroactive to the date of initial filing even though the disabling conditions might not have been documented until the final appeal stage. My amendment cuts off the introduction of new evidence at the point at which a State agency makes a final decision on the application. I want to emphasize, Mr. President, that the applicant will be able to supplement his documentation during the State reconsideration process as well as during the initial determination. My amendment will result in simpler administration of the appeals process and help restore the integrity of the appeals system, which has been questioned due to the floating application process.

My last amendment, Mr. President, has to do with section 304 in the bill, which would greatly expand Federal control over State disability determinations. In the name of uniformity and standardization, the bill would provide for back-door federalization of the disability determination process which the States now administer. It would give the Federal Government almost total control of the State agencies—reaching even such things as office locations and pay levels for employees. My amendment will simply eliminate the section of the bill giving the Social Security Administration almost total control over State agencies.

Mr. President, I believe these amendments that I intend to offer will improve the work incentives and promote the efficient administration of the social security disability program. I invite the support of my colleagues.●

VITIATION OF SENATOR BENTSEN'S SPECIAL ORDER

The PRESIDING OFFICER. The Senator from Texas (Mr. BENTSEN) not being present in the Chamber his request for special order is vitiated.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3236, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 731

The PRESIDING OFFICER. The pending amendment is amendment No. 731.

The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, under the unanimous-consent agreement, the Senator from Louisiana has control of 53 of the remaining minutes and the Senator from Kansas (Mr. DOLE) has control of 41 of the remaining minutes.

Mr. SCHMITT. Mr. President, will the Senator from Kansas yield time on the bill before us for a discussion of an amendment that I intend to offer later in the morning on that bill?

Mr. DOLE. Mr. President, I yield 5 minutes to the Senator.

Mr. SCHMITT. Five minutes are more than enough.

Mr. President, I say to both of the distinguished managers of this disability insurance measure that in my pursuit of an issue in the last session of this Congress, namely, the issue of the IRS becoming a small debt collector for the Federal Government, I discovered that they were already a small debt collector for the Federal Government in at least one area. There may be others. But this is the only one that I have been able to discover, and has to do with the collection of debts owed under the aid for dependent children program. This measure before us would attempt to extend that debt-collection authority to collect child support payments for the State to non-AFDC families.

As I argued some time ago on an appropriations bill dealing with student loans, I do not think this is an appropriate function for the IRS. Later in the morning or early afternoon I will be offering an amendment that will delete the provision in this bill to expand IRS authority as a small debt collector.

This movement, or incipient movement, and it has not succeeded, fortunately, so far, to have the IRS as a tax collecting agency, can very seriously undermine the IRS as a tax collecting agency and possibly harm the voluntary nature of the system. In fact, that has been the judgment of the commissioner of the IRS.

It would increase the cost of collecting taxes by changing withholding patterns. It would play into the hands of many of the previous abuses that we know of in the IRS system and probably goes counter to the Tax Reform Act of 1976, which provides for privacy of records, and that would pose problems for any collection activity undertaken by the IRS.

As the Senators, I am sure, recall, we created the inspectors general in the agencies to look into matters such as the collection and the efficacy of the collection mechanisms of the various agencies, and I think we owe it to ourselves, if not to the agencies, to see if the inspectors general mechanism can work in this and other regards.

There is, of course, just the basic question of what are the rights of individuals, the legal rights of individuals, to due process in questions of debts owed or potentially owed to the Federal Government.

When we put the IRS in a position that we can subtract from a tax refund the Government's idea of what is owed to the Government, or to a State government in the instant case, then we are clearly moving away from providing due process.

I bring this up at this point just to alert the managers of the bill that an amendment will be offered, and we will have copies of the amendment to them very shortly, and I hope the colleagues who are listening to this discussion will begin to look at this issue very carefully. There have been "Dear Colleague" letters provided and other information will be available shortly.

Mr. President, I yield back to the managers. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DOLE. I suggest it be charged equally.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, we really should be debating and discussing the pending amendment, the Percy amendment, which is the pending business. So I suggest that the time be charged equally to Senator PERCY and to the manager of the bill. I have 22 minutes and he has 20 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I ask unanimous consent that Linda McMahon, Sheila Burke, Bob Lighthizer, and Rod DeArment be granted floor privileges during the consideration of this measure.

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

Mr. LONG. Mr. President, I ask unanimous consent that—I yield myself 30 seconds—David Koitz and Margaret Malone of the Congressional Research Service be permitted privileges of the floor during the consideration of this measure.

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

Does the Senator from Illinois seek recognition?

Mr. PERCY. Yes.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, as I understand it, the pending business is amendment No. 731?

The PRESIDING OFFICER. The Senator is correct.

Mr. PERCY. First, Mr. President, I ask unanimous consent that two members of the Governmental Affairs staff, Tim Jenkins and Charles Berk, and a member of my personal staff, Barbara Block, be permitted on the floor during consideration of H.R. 3236 and any votes thereon.

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

Mr. PERCY. Mr. President, I rise to continue my remarks of December 5, 1979, concerning my amendment No. 731, designed to curb certain abuses of the supplemental security income program by newly arrived aliens. This amendment was originally contained in S. 1070, which I introduced on May 3, 1979, and is being introduced as an amendment to H.R. 3236, an act designed to remove certain work disincentives for the disabled from the supplementary security income program (SSI). Another portion of S. 1070 has already been added as an amendment to H.R. 3236.

Over 2 years ago, I discovered that a loophole in this Nation's immigration and social security laws was costing the American taxpayer many millions of dollars annually in SSI benefits to newly arrived aliens.

Here is how the loophole works:

The immigration law requires as a condition of entry for certain categories of aliens that they have a sponsor, often a close relative or friend, who is a citizen or permanent resident of the United States. As a condition for granting an immigration visa to the alien, the sponsor promises the Government that the immigrant will not become a public charge. Without this presumed commitment the alien would not be permitted to come to the United States.

It is perfectly clear that unless a commitment is given, and a sponsor signs that he will be responsible for the immigrant, and indicates that the immigrant will not become a public charge, there would be no chance for that immigrant to come into the country. If they had not signed on that way, and had not demonstrated their financial ability to provide support for the immigrant, there would have been no chance for the alien to come in.

That is the theory behind it. The commitment is there, and is in writing, and it certainly is the strongest kind of a moral obligation.

The privilege of coming into this country is sought by literally millions of people. To grant that privilege to a relatively few people each year, has to be, and is, based by law on the certification of the sponsor that the alien will not become a public charge. As far as I can see it is all theory. There is no factual evidence supporting it.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. PERCY. I would be happy to yield.

Mr. DOLE. The Senator from Kansas certainly supports the concept.

Mr. President, this amendment, in conjunction with the provision in the bill which requires aliens to reside in the United States for 3 years before becoming eligible for SSI benefits, will correct a situation which has outraged the American public for several years. It assures that the financial responsibility for the alien remains on the shoulders of the sponsor where it belongs rather than being allowed to be transferred to the backs of the taxpayers.

There is no reason for American taxpayers to have to provide a tax-free, 100 percent Government-funded pension to aliens who have been in this country for only 30 days and contributed little or nothing to the economy. The burden of Government programs, in terms of inflation and taxation, on our own citizens is nearing the unbearable. So, if we are going to spend these dollars, they should not be spent on short-term aliens. Better still, we should save these dollars and give our taxpayers a break.

There are ample protections provided in the amendment for aliens and sponsors alike to preclude undue hardships, and I urge my colleagues to support the amendment.

The only question we would have would be on the matter of jurisdiction, whether we would have jurisdiction or whether the Judiciary Committee would have jurisdiction. I am a member of the Judiciary Committee. I understand the Senator from Illinois may have worked out any jurisdictional problems and, if so, then both managers of the bill would be prepared to accept the amendment.

We are trying to check on our side of the Judiciary Committee to see if there are any objections to the amendment. I cannot understand why there would be any objections because I think it is an outstanding effort by the Senator from Illinois.

So the Senator from Kansas supports the effort. I hope we might avoid a rollcall, but if that is not possible, maybe we could have it a little later on after we have had another amendment or two.

Mr. PERCY. I think it has been worked out. There might be some questions in some Senator's minds about the way it has been done, but I will be very happy to describe what has been worked out for the guidance and reaction of the floor managers of the bill.

The law, however, also permits a new immigrant to apply for and receive supplemental security income (SSI) benefits 30 days after arrival in the country. To round out the loophole, the courts have ruled that the sponsor's promise to support the immigrant is nothing but a "moral obligation."

As a result, responsibility for financial support of the immigrant is shifted from the immigrant and his sponsor to the taxpayers. In effect, the immigrant gets a gift from the Government—an instant pension.

The GAO determined that during 1977, in five States alone—those with the largest number of aliens—about 37,500 newly arrived aliens received close to $72 million in SSI benefits. About $16 million of this amount was paid to refugees. The GAO further found that of the total alien population receiving SSI an estimated 63 percent had enrolled in the program during their first year of residency in this country. All told, 96 percent of those aliens receiving SSI had resided in the United States for 3 years or less at the time they first began receiving benefits.

In numerous cases, sponsors who have reneged on their promises of support had the full financial capability to support the newly arrived alien but instead chose to take advantage of the loophole. A May 7, 1979 article in the Los Angeles Times provides some choice examples:

> A 65-year-old man in Sunnyvale, California, * * * entered the country under the sponsorship of his daughter, who earns over $25,000 and lists assets worth over $130,000. He applied for and received welfare benefits within four months of his arrival.
>
> Three months after entering the United States, a couple from San Francisco began receiving monthly benefits of $336, despite the fact that their son-in-law had signed an affidavit guaranteeing that they would not become public charges. Once they got on welfare, he discontinued all assistance, whereupon the couple's benefits were increased to $522 per month.
>
> One elderly woman, whose entry was sponsored by her daughter in Illinois, actually applied for welfare two months before she arrived in America. The payments began 15 days after she joined her daughter.

Similar instances of abuse have also been fully documented by the GAO.

The amendment for which I speak today would make the sponsor's affidavit of support a legally enforceable contract. This measure has received strong bipartisan support. Senator CRANSTON is its principal consponsor and 23 other Members of the Senate have signed on as cosponsors.

On October 26, 1979, during Finance Committee consideration of H.R. 3236, Senator ROTH offered as an amendment that portion of S. 1070 requiring all aliens, with the exception of refugees, to meet a 3-year residency requirement for participation in the SSI program. The committee unanimously approved the amendment which is now included in section 504(a) of H.R. 3236.

Today, in voting on this amendment which is specifically concerned with the affidavit of support, we have an opportunity to eliminate this intolerable loophole.

While a 3-year residency requirement for participation in the SSI program is undoubtedly an important step in curbing the abuses now under discussion, a residency requirement alone will not prevent sponsors from reneging on their promises of support to newly arrived aliens. However, with the added deterrent of a binding affidavit of support, few would treat their obligations lightly. If the sponsor chooses not to live up to his obligation of support, he may be subject to civil suit in either Federal or State court.

I would like to make it very clear that this amendment does not penalize the honest and well-intentioned sponsor. The sponsor can be relieved from his obligation of support if he is able to affirmatively demonstrate that his financial resources subsequent to the execution of the affidavit have diminished for reasons beyond his control and that he is financially incapable of supporting the alien. If such a determination is made, the alien who has lost his means of support would be eligible for SSI assistance.

In order to best effect the amendment's cost-saving purpose, an enforceable affidavit of support is essential to eliminate the loophole. The time has now come for the responsibility of an alien's support to be squarely placed on the shoulders of the sponsor who promises to do so, and not the American public. We have before us a real opportunity to enact cost-saving legislation that can be implemented quickly and efficiently. We, the 96th Congress, committed to vigorous oversight, have promised our constituents a close scrutiny of Federal spending and have promised to cut costs wherever it can be achieved and justified. Clearly, this amendment will fulfill that mandate. I would, therefore, urge my colleagues to accept the amendment and make the sponsor's affidavit of support a legally binding and enforceable agreement.

Mr. President, I would also like to add modifying language to my amendment. The modifying language provides that in the event the immigration sponsor does not live up to the terms of his support agreement, the Attorney General or the affected alien can bring civil suit against the sponsor in the U.S. district court for the district in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy. This modification would give the Federal courts exclusive jurisdiction to enforce a sponsorship agreement when no State or local public assistance funds have been paid to the alien.

In the event that local or State public assistance funds are paid to the alien because the sponsor has not lived up to the terms of his support agreement, State or local authorities may bring civil suit against the immigration sponsor. The suit may be brought in the State courts for the State in which the immigration sponsor resides or in which such alien resides without regard to the amount in controversy. If the amount in controversy is $10,000 or more, civil suit may be brought by the State or local authorities, in the U.S. district court for the district in which the immigration sponsor resides or in which the alien resides.

Additional modifying language also clarifies the liability of a sponsor who, without just cause, fails to comply with the terms of his support agreement. In such a case, the Federal Government would be expected to seek vigorous enforcement of the support agreement on behalf of the alien who has lost his means of support. While the Government is seeking enforcement of the support agreement, the newly arrived alien would be eligible to receive SSI benefits. Of course, the sponsor would, at a minimum, be held liable by the Federal Government for full reimbursement of SSI benefits paid to the abandoned alien.

I ask unanimous consent that the above-described modifying language be added to my amendment No. 731.

The PRESIDING OFFICER (Mr. CULVER). Will the Senator also send to the desk——

Mr. PERCY. Mr. President, I ask unanimous consent that my distinguished colleague, the Senator from Washington (Mr. JACKSON) be added as a cosponsor to my amendment No. 731.

Mr. LONG. Mr. President, will the Senator explain what the modification of the amendment is?

The PRESIDING OFFICER. Does the Senator reserve the right to object?

Mr. LONG. Yes, I do, Mr. President.

I would like to find out what the modification is.

Mr. PERCY. Mr. President, the modification would provide that suit could be brought against a sponsor; that he could be held legally liable. There is now a moral obligation; there is not a legal liability. And that is the gaping loophole that we discovered had been taken advantage of. Word of mouth through the community—I know in Chicago, alone—indicates that, well, all you do is bring them over, sign the slip, say you are going to be morally obligated, and you will be a public charge but you can take them right down and get a supplementary income.

Mr. LONG. Is that the amendment or the modification?

Mr. PERCY. That is the modification of the amendment.

Mr. LONG. I thank the Senator. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The amendment (No. 731), as modified, is as follows:

On page 106, after line 24, insert the following:

TITLE VI—A PROVISION RELATING TO THE IMMIGRATION AND NATIONALITY ACT

"SUPPORT OF ALIENS

SEC. 601(a) Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"SEC. 216(a) No alien shall be admitted to the United States for permanent residence unless (1) at the time of application for admission an agreement described in subsection (b) with respect to such alien has been submitted to, and approved by, the Attorney General (in the case of an alien applying while in the United States) or the Secretary of State (in the case of an alien applying while outside the United States), or (2) such alien presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he has other means to provide the rate of support described in subsection (b). The provisions of this section shall not apply to any alien who is admitted as a refugee under section 203(a)(7), paroled as a refugee under section 212(d)(5), or granted political asylum by the Attorney General.

"(b) The agreement referred to in subsection (a) shall be signed by a person (hereinafter in this section referred to as the 'immigration sponsor') who presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he will provide to the alien the financial support required by this subsection, and such agreement shall constitute a contract between the United States and the immigration sponsor. Such agreement shall be in such form and contain such information as the Attorney General or Secretary of State (as may be appropriate) may require. In such agreement the immigration sponsor shall agree to provide as a condition for the admission of the alien, for the full three-year period beginning on the date of the alien's admission, such financial support (or equivalent in kind support) as is necessary to maintain the alien's income at a dollar amount equal to the amount such alien would receive in benefits under title XVI of the Social Security Act, including State supplementary benefits payable in the State in which such alien resides under section 1616 of such Act and section 212 of the Act of July 9, 1973 (Public Law 93-66), if such alien were an 'aged, blind, or disabled individual' as defined in section 1614(a) of the Social Security Act. A copy of such agreement shall be filed with the Attorney General and shall be available upon request by any party authorized to enforce such agreement under subsection (c).

"(c)(1) Subject to paragraphs (3) and (4), the agreement described in subsection (b) may be enforced with respect to an alien against his immigration sponsor in a civil action brought by the Attorney General or by the alien. Such action shall be brought in the United States District Court for the district in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

"(2) Subject to paragraph (4), for the purpose of assuring the efficient use of funds available for public welfare, the agreement described in subsection (b) may be enforced

with respect to an alien against his immigration sponsor in a civil action brought by any State (or the Northern Mariana Islands), or political subdivision thereof, which is making payments to, or on behalf of such alien under any program based on need. Such action may be brought in the United States District Court for the district in which the immigration sponsor resides or in which such alien resides, if the amount in controversy is $10,000 or more (or without regard to the amount in controversy if the action cannot be brought in any State court), or in the State courts for the State in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

"(3) The right granted to an alien under Paragraph (1) to bring a civil action to enforce an agreement described in subsection (b) shall terminate upon the commencement of a civil action to enforce such agreement brought by the Attorney General under paragraph (1) or by a State (or political subdivision thereof) under paragraph (2).

"(4) The agreement described in subsection (b) shall be excused and unenforceable against the immigration sponsor or his estate if—

"(A) the immigration sponsor dies or is adjudicated as bankrupt under the Bankruptcy Act,

"(B) the alien is blind or disabled from causes arising after the date of admission for permanent residence (as determined under section 1614(a) of the Social Security Act),

"(C) the sponsor affirmatively demonstrates to the satisfaction of the Attorney General that his financial resources subsequent to the date of entering into the support agreement have diminished for reasons beyond his control and that he is financially incapable of supporting the alien, or

"(D) judgment cannot be obtained in court because circumstances unforseeable to the alien at the time of the agreement.

"(d)(1) If an agreement under subsection (b) becomes excused and unenforceable under the provisions of subsection (c)(4)(C) on account of the sponsor's inability to financially support the alien, such agreement shall remain excused and unenforceable only for so long as such sponsor remains unable to support the alien (as determined by the Attorney General, but in no case shall the agreement be enforceable after the expiration of the three-year period designated in the agreement. The sponsor shall not be responsible for support of the alien for the time during which the agreement was excused and unenforceable, except as provided in paragraph (2).

"(2)(A) If the Attorney General determines that a sponsor intentionally reduced his income or assets for the purpose of excusing a support agreement, and such agreement was excused as a result of such reduction, the sponsor shall be responsible for the support of the alien in the same manner as if such agreement had not been excused, and shall be responsible for repayment of any public assistance provided to such alien during the time such agreement was so excused.

"(B) For purposes of this paragraph the term 'public assistance' means cash benefits based on need, or food stamps.".

(b) The table of contents for chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"SEC. 216. SUPPORT OF ALIENS."

(c) Section 212(a)(15) of the Immigration and Nationality Act is amended by inserting before the semicolon the following: ", or who fail to meet the requirements of section 216".

(d) The amendments made by this section shall apply with respect to aliens applying for immigrant visas or adjustment of status to permanent resident on or after the first day of the fourth month following the date of the enactment of this Act.

On page 99, line 23, strike out "or (II)" and insert in lieu thereof the following: "(II) the support agreement with respect to such alien under section 216 of the Immigration and Nationality Act is excused and unenforceable pursuant to subsection (c) of such section, (III) the sponsor of such alien (as defined in section 216 of the Immigration and Nationality Act) fails to provide support for such alien under the terms of the support agreement as required under such section 216, and such alien affirmatively demonstrates to the satisfaction of the Attorney General that he did not participate in any fraud, collusion, or misrepresentation on the part of the sponsor, that he believed in good faith that the sponsor had adequate financial resources to support him, and that he could not have reasonably foreseen the refusal or inability of the sponsor to comply with the support agreement (provided that the three-year residency requirement shall not apply only for the period during which such sponsor fails to provide support under such agreement), or (IV)".

On page 33, amend the table of contents by adding at the end thereof the following items:

TITLE VI—A PROVISION RELATING TO THE IMMIGRATION AND NATIONALITY ACT

SEC. 601. SUPPORT OF ALIENS.

Mr. LONG. Mr. President, I yield myself 3 minutes.

Mr. President, the Senator from Louisiana and, so far as I know, other members of the Finance Committee, have no objection to this amendment. We think the amendment is meritorious. As far as this Senator is concerned, he would have no objection if the Senate saw fit to agree to it.

The problem is, from our point of view, that we do not have jurisdiction over the matter. It is not a Finance Committee matter. It is properly within the jurisdiction of the Committee on the Judiciary. It may very well be that someone on the Judiciary Committee might object to the amendment, and we had some indication previously that there might be such an objection.

The Senator from Louisiana would be happy to yield his time to anyone who cares to oppose the amendment. As far as this Senator is concerned, it is a matter beyond the Finance Committee's jurisdiction, but anyone has a right to offer an amendment, as the Senator has done.

As far as the Senator from Louisiana is concerned, it is purely a matter of asking the Senate and if the Senate wants to agree to the amendment, more power to them. They can go right ahead. Otherwise, the Senate may prefer to await action by the Judiciary Committee. If the Senate so wishes, then the chairman of the committee would be perfectly content to await the recommendation of that committee. I have no objection to the amendment.

Mr. PERCY. Mr. President, what I have suggested to the distinguished minority manager of the bill (Mr. DOLE), and I ask the judgment of the floor manager of the bill (Mr. LONG), because this has been a subject of jurisdictional controversy, and because the Senator from Illinois wants to alert every member of the Judiciary Committee that this is going to be voted on, I would not want Members of the Senate to leave their committees just for this amendment.

I feel the best way to work it out would be to ask unanimous consent that whenever the next rollcall occurs on any other amendment or on final passage, that the amendment of the Senator from Illinois, amendment No. 731, be voted on at that particular time, just before the other amendment.

Mr. LONG. Mr. President, I join the Senator in making that request, that immediately after the next rollcall vote we call the roll on the Percy amendment.

The PRESIDING OFFICER. The Chair understood the proposed unanimous-consent request to suggest that the Percy amendment would be considered prior to the next amendment and the Senator from Louisiana is suggesting afterwards. What is the form of the unanimous-consent request?

Mr. PERCY. Mr. President, it is immaterial to the Senator from Illinois, if there are other amendments to be voted on, whether it is the next amendment or whether it will be immediately following. I would suggest immediately following the next amendment, back to back.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEVINE. Mr. President, I would like to take this moment to thank Senator PERCY for his cooperation and assistance in working to iron out a concern I had with the language in his original amendment relating to the support agreement.

The amendment as modified by Senator PERCY today will add one more exception to the 3-year residency requirement which is contained in H.R. 3236, by allowing the legal alien to demonstrate to the satisfaction of the Attorney General that he had no prior knowledge of the sponsor's refusal or inability to provide support and that he believed in good faith that the sponsor had adequate financial resources to support him. Should the Attorney General be convinced of the legal alien's lack of knowledge or participation in the sponsor's failure to provide support, the residency requirement would be dropped and the legal alien would be eligible for SSI benefits. The additional exception in section III of section 504 of H.R. 3236 was needed because the original amendment made no exception for the legal alien eligible for SSI, who through no fault of his or her own was left without any means of support.

Mr. President, I support the requirement that a sponsor sign a legally binding contract to provide support before a legal alien is granted permanent residency in the United States. In fact, it is difficult for me to believe that this loophole was not closed by the Congress at an earlier date. Should the sponsor break his commitment of support for reasons other than those which are considered to be excusable such as death or bankruptcy however, I believe that the Federal Government has a responsibility to provide for an innocent legal alien until such time as the Attorney General can

force the sponsor to carry out his commitments.

I believe that under the new law very few, if any sponsors will sign an affidavit of support in bad faith. Sponsors will be aware of their liability and will not be inclined to sign an agreement unless they fully intend to provide support for at least 3 years. While I believe instances of the sponsors failure to provide support should be few and far between, it is still unfair to require the States to pick up the cost of supporting the legal alien in those hopefully few cases when a sponsor without just cause, fails to meet the terms of his support agreement. I would add that it is important to consider that the legal aliens we are referring to who are eligible for SSI benefits, are either blind, disabled, or over the age of 65. The primary intent of the Percy amendment is to provide the Federal Government with the mechanism necessary to enforce a sponsor's affidavit of support agreement. It is not to penalize legal aliens who enter the country with the good faith understanding that they will be provided for by their sponsor.

Mr. President, the amendment as modified by Senator PERCY today will strengthen our immigration policies and at the same time keep intact the sense of humanity upon which our supplemental security income laws were written.

Mr. PERCY. Mr. President, I ask unanimous consent that Donna Maddox of my staff be permitted access to the floor on this bill and on all subsequent votes.

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

Mr. DOLE. Mr. President, it is my understanding that the Senator from New Mexico (Mr. SCHMITT) is on his way to propose an amendment. I would suggest the absence of a quorum, awaiting his arrival.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. RIBICOFF. Mr. President, I would like to have the attention of the manager of the bill.

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIBICOFF. Mr. President, I am concerned with a very narrow issue which arises out of the report language which appears on page 10 of the Senate report concerning demonstration projects. In this bill we have given the Secretary the authority to establish demonstration projects under the disability insurance program and the supplemental security income program.

The bill and the report are rather specific as to the types of demonstration projects to be carried out under the Disability Insurance program. For example, specific mention is made to encourage "greater use of private contractors, employers, and others to develop, perform or otherwise stimulate new forms of rehabilitation.

In regard to the supplemental security income program's demonstration projects, however, the report merely instructs the Secretary to conduct demonstration projects that "are likely to promote the objectives of * * * of the SSI program."

My concern is that I would like to see the results of demonstration projects that make greater use of the private sector in stimulating the rehabilitation of SSI beneficiaries as well as the results of projects which stimulate the rehabilitation of disability insurance beneficiaries. To this end, I assume that the use of the private sector in demonstration projects to stimulate the rehabilitation of SSI recipients is clearly within and consistent with the "objectives of the SSI program"?

Mr. LONG. The Senator is correct.

Mr. RIBICOFF. And am I correct that our intent here today is that the Secretary should make use of the private sector as well as the public sector in the establishment of both disability insurance and supplemental security income demonstration projects to stimulate rehabilitation?

Mr. LONG. Yes, that is correct.

Mr. RIBICOFF. I thank the distinguished chairman.

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

The PRESIDING OFFICER. On whose time?

Mr. RIBICOFF. On my time, I guess.

The PRESIDING OFFICER. The Senator has no time. The time will be equally divided.

Mr. LONG. Mr. President, I yield myself 1 minute.

May I ask if the Senator from Wisconsin is ready to call up his amendment? I understand he has an amendment he intends to offer.

AMENDMENT NO. 745

Mr. NELSON. Mr. President, I call up printed amendment No. 745, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. HUDDLESTON, proposes an amendment numbered 745.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 56, line 11, after the comma insert the following: "and after he has complied with the requirements of paragraph (3),".

On page 56, line 19, before the period insert the following: ", or (if later) until the Secretary has complied with the requirements of paragraph (3)".

On page 56, line 20, strike out the quotation marks and the second period.

On page 56, between lines 20 and 21, insert the following:

"(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency).

"(B) The Secretary shall not undertake such assumption of the disability determination function until such time as the Secretary determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include, without being limited to, such provisions as are provided under all for (1) the preservation of rights, privileges, applicable Federal, State, and local statutes and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (2) the continuation of collective-bargaining rights; (3) the assignment of affected employees to other jobs or to retraining programs; (4) the protection of individual employees against a worsening of their positions with respect to their employment; (5) the protection of health benefits and other fringe benefits; and (6) the provision of severance pay, as may be necessary. In determining that the State has made fair and equitable arrangements as provided for in the preceding sentence, the Secretary shall consult with the Secretary of Labor.".

On page 59, line 19, before the period insert the following: ", and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act".

Mr. NELSON. Mr. President, I send to the desk a modification, which has technical changes, and ask for its consideration.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 56, line 11, after the comma insert the following: "and after he has complied with the requirements of paragraph (3),".

On page 56, line 19, before the period insert the following: ", or (if later) until the Secretary has complied with the requirements of paragraph (3)".

On page 56, line 20, strike out the quotation marks and the second period.

On page 56, between lines 20 and 21, insert the following: "(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a prefcrence over any other individual in filling an appropriate employment position with the Secretary (subject to any system establishcd by the Secretary for determining hiring priority among such employees of the State agency).

"(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of *Labor* determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable ar-

rangements to protect the interests of employees so displaced. Such protective arrangements shall include [without being limited to, such] *only those* provisions *which* are provided under all applicable Federal, State and local statutes *including, but not limited to*, (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (2) the continuation of collective-bargaining rights; (3) the assignment of affected employees to other jobs or to retraining programs; (4) the protection of individual employees against a worsening of their positions with respect to their employment; (5) the protection of health benefits and other fringe benefits; and (6) the provision of severance pay, as may be necessary.

On page 59, line 19, before the period insert the following: ", and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act".

Mr. NELSON. Mr. President, I raised this issue in the Committee on Finance, but did not have prepared, at that time, an amendment. I advised the committee at the time that I would have an amendment to meet the problem we are concerned with here, when the bill was taken up on the floor of the Senate.

Mr. President, the Senator from Kentucky (Mr. HUDDLESTON) and I introduced this amendment for printing on Wednesday, December 5, and placed the text of the amendment and a memorandum explaining it in the RECORD (pages S17876 and S17877).

I discussed this amendment during the Finance Committee's consideration of the disability bill, at which time, there was general agreement on the substance of the amendment we are offering today. My staff has consulted with the staff of the floor managers from both the majority and minority side, and I believe that there is no objection to the amendment.

The amendment provides employment protections for State employees who now administer the disability insurance (DI) program. The reason any such provisions are necessary is that, under H.R. 3236, as approved by the House of Representatives and by the Senate Committee on Finance, there is an increased likelihood, however small, that the Federal Government will take over, in any given State, the administration of the DI program. In the event of such an occurrence, this amendment provides that affected State employees will be given preference in any positions created by the Federal Government and protects the existing rights of the State employees under all applicable Federal, State, and local laws who are displaced by the Federal takeover.

BACKGROUND

H.R. 3236, as approved by the House and by the Finance Committee, would eliminate the provision in present law which provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. Instead of these agreements, the bill would provide for standards and criteria contained in regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function in order to assure effective and uniform administration of the disability insurance program throughout the United States.

The bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with the Department's regulations, the Secretary shall, not earlier than 180 days following his finding, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the bill also provides for the termination of the disability insurance program by the State. Under H.R. 3236, the State is required to continue to make disability determinations for 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

IMPACT OF H.R. 3236 ON STATE AGENCIES AND STATE EMPLOYEES

In the Ways and Means Committee report accompanying H.R. 3236, it was acknowledged that if the bill is enacted,

There is more likelihood that some States may decide not to participate under the program or the Secretary may determine that a State is not complying with the regulation requirements promulgated under this legislation.

In the past, certain States have seriously considered withdrawing from the program, and several States and State employee unions believe that H.R. 3236 will make such an option even more attractive for many States. In Wisconsin, for example, the State government has indicated it will terminate the administration of the program beginning this year.

If the Federal Government does indeed take over State disability determination agencies, the employment status of many States employees will be uncertain. Because there are no assurances in H.R. 3236 that these State employees will be reemployed by the Federal Government, many of these State employees could lose their jobs as DI employees permanently, even though it is generally recognized that State agencies have the "greatest reservoir of talent in the disability program."

NELSON-HUDDLESTON AMENDMENT

The Nelson-Huddleston amendment provides that first whenever a State chooses to terminate its administration of the disability program or second whenever the Secretary of HEW terminates the administration of the disability program by a given State, a specific plan must be developed, and all appropriate procedures initiated to implement the plan, before the Federal Government can assume the responsibilities of the State disability determination unit. The plan must provide a procedure to insure that affected State employees will be given preference in any positions created by the Federal Government and to protect the existing rights of State employees under all applicable Federal, State, and local laws.

More specifically, the amendment requires the Secretary of HEW to establish a procedure to give employees of the affected State agency who are "capable of performing duties" in the disability determination process for the Federal Government a "preference" over any other individual in filling an appropriate employment position with the Federal Government. In order to accomplish this objective, the Secretary would have to establish a hiring priority procedure among the employees of the State agency.

For those persons who choose not to be employed by the Federal Government, or for whom Federal Government employment is not offered, the Secretary of Labor is required to insure that the State has made fair and equitable arrangements to protect the interests of employees who are displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State, and local statutes including, but not limited to: First, the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; second, the continuation of collective-bargaining rights; third, the assignment of affected employees to other jobs or to retraining programs; fourth, the protection of individual employees against a worsening of their positions with respect to their employment; fifth, the protection of health benefits and other fringe benefits; and sixth, the provision of severance pay, as may be necessary.

Mr. President, the intent of this amendment is to insure that the Federal Government does not in any instance come into any State capitol in the United States, take over the administration of the disability insurance program, and hire a whole new set of employees to work for the Federal Government without first utilizing and considering those State employees who administered the disability insurance program for the State. The amendment does not prohibit the Secretary of HEW from taking over the administration of the State program, nor does it hinder any State's ability to terminate its administration of the disability insurance program.

Rather, the amendment simply places an additional requirement in the law concerning the status of State employees before any action can be taken that could damage the employment situation of these employees.

Finally, the amendment requires the Secretary of HEW to file a detailed plan by July 1, 1980, on how the Department intends to implement the provisions of this amendment. Included in that plan should be a detailed analysis of how the Secretary intends to protect the pension rights and all other employee benefit rights of those persons who leave State government to assume Federal employment.

Mr. President, since the Senator from Kentucky and I introduced amendment No. 745, the Department of Health, Education, and Welfare, the American Federation of State, County, and Mu-

nicipal Employees, and the National Association of Disability Examiners have carefully reviewed the language of our amendment and made several helpful suggestions to improve it. I have sent these modifications to the desk.

I urge adoption of amendment No. 745, as modified.

Mr. President, what this really means is that the State employees are now administering the program, funded by the Federal Government. If, under the rare circumstance—and they will be rare circumstances—the administration of that program is taken over by the Federal Government, those who currently hold the jobs administering the programs will simply be given preference for any of those positions when they are taken over by the Federal Government.

Mr. LONG. Mr. President, I yield myself 3 minutes.

The Senator's amendment provides that if a State—and I assume he has the great State of Wisconsin in mind—wants to withdraw from the making disability determinations under the disability program, the Federal Government has to hire its employees. Obviously, Mr. President, the people over in HEW do not want to have those employees dumped on their doorstep and I do not think anyone in a responsible position would like to be denied the right to hire whoever he or she finds qualified to do a job in the event that they are required to do it. This is not a situation, Mr. President, where the Federal Government is proposing to oust the States from their jurisdiction. As long as the State is administering this program under the law, they have the decision on whom they want to hire.

We are not arguing about that. But if the State just wants to get rid of the responsibility, vacate the premises, it is difficult to see why the Federal Government ought to be required to hire all those State employees. As I understand it, HEW opposes the amendment. The administration is opposed to it for the very logical reason that they ought to say whom they are going to hire.

Mr. NELSON. I am advised by staff that HEW does not oppose the amendment. We were assured this morning—my staff was assured this morning—by Mr. Welch of HEW that they do not oppose the amendment.

Mr. LONG. If the Department supports the amendment, Mr. President, it will have to advise me. My impression was that the Department had been consulted and advised the Senator with regard to the language of the amendment, but I have not been advised that the administration favors the amendment. Perhaps we can find out and confirm the matter one way or the other before we vote on it.

I have not discussed the matter with them personally, but that is my advice from staff, that the administration does not favor the amendment. Perhaps we can get the matter ironed out and find out more about it during the next half hour or so.

Mr. NELSON. Mr. President, let me say to the Senator, so it will follow at this place in the RECORD, under the law, if the State is not administering the disability law pursuant to the rules and guidelines in the statute, the Secretary may—may—take over the administration of the program.

No. 2, a State may turn the administration over to the Secretary of HEW. So those are the two circumstances.

All this amendment proposes is that if the Federal Government should take over the administration of the program because the State was not complying with the law, which is unlikely to happen but might, or if a State decides to yield the administration of the law to the Federal Government, which might happen in a circumstance or two or three, those employees who occupy those jobs now being paid for by the Federal Government anyway, sitting at their desks, in their offices, may continue to administer the program. There has been no change at all, really, except an exchange someplace, putting in HEW in place of the State. It is the same program, same employees, same everything.

This amendment simply says that, if that happens, the affected employee should not suddenly be without a job; that if he were qualified to administer it under the State government, if he is still qualified to do it, then he ought to be able to have that job unless the Federal Government decides, well, we are going to cut 10 percent of the employees.

They can do that if they can reduce the number. But if they are going to retain the spot, that person who already has it ought to have the preference to get the job.

I am certain the Senator from Louisiana is not arguing that they ought to be able, willy-nilly, just to fire a good, hard-working employee who has 10 or 20 years in, just because they change the title of the government that is administering the program. That is all this amendment does.

Mr. LONG. Mr. President, the Senator has been provided with some information at variance with the information provided to the manager of the bill. I hope that we are able to obtain some better advice before we vote on the amendment. I hope the Senator will withhold his amendment. If we cannot do any better, we can suggest the absence of a quorum.

Mr. NELSON. I am agreeable to laying the amendment aside temporarily and proceeding to whatever other business there is and, at such time as that question is resolved to everybody's satisfaction, we can take it up again. Is that the way the Senator wishes to do it?

Mr. LONG. I think that would be a good idea.

Mr. DOLE. Will the Senator from Wisconsin yield?

Mr. NELSON. Yes, I yield.

Mr. DOLE. Mr. President, I am sympathetic to the problem the Senator from Wisconsin has. I hope we can put our heads together and work out some solution, but I hope in the process, we do not slow down the disability determination process. I think that is one reservation some of us may have, but I am willing to work with the Senator from Wisconsin on it.

Mr. NELSON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 749

(Purpose: To provide that the waiting period for disability benefits shall not be applicable in the case of a disabled individual suffering from a terminal illness, in lieu of providing a demonstration project relating to the terminally ill)

Mr. BAYH. Mr. President, I call up my amendment No. 749.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an amendment numbered 749.

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

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

The amendment is as follows:

On page 39, between lines 11 and 12, insert the following new section:

"ELIMINATION OF WAITING PERIOD FOR TERMINALLY ILL INDIVIDUAL

"SEC. 105. (a) The first sentence of section 223(a)(1) of the Social Security Act is amended, in clause (ii) thereof—

"(1) by inserting '(I)' immediately after 'but only if', and

"(2) by inserting 'or (II) he has a terminal illness (as defined in subsection (e)),' immediately after 'the first month in which he is under such disability,'.

"(b) Section 223 of such Act is further amended by adding at the end thereof the following new subsection:

"'Definition of Terminal Illness

"'(e) As used in this section, the term "terminal illness" means, in the case of any individual, a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months.'.

"(c) The amendments made by this section shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act filed—

"(1) in or after the month in which this Act is enacted, or

"(2) before the month in which this Act is enacted if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month, or

"(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act shall be payable by reason of the amendments made by this section for any month before October 1980.".

On page 101, strike out lines 1 through 17. Redesignate sections 506 and 507 as sections 505 and 506, respectively.

On page 32, amend the table of contents by adding at the end of title I the following item:

"Sec. 105. Elimination of waiting period for terminally ill individual.".

On page 33, amend the table of contents by striking out the item relating to section 505, and redesignating sections 506 and 507 as sections 505 and 506, respectively.

Mr. BAYH. Mr. President. I rise today to offer amendment No. 749, a substitute

amendment to the demonstration project in H.R. 3236. My amendment would eliminate the waiting period for the collection of disability insurance for the terminally ill.

Currently social security disability benefits do not begin to accrue until 5 months after a claim is filed with the Social Security Administration. For the terminally ill, this waiting period often means they will not be able to collect those disability benefits at all, the only social security benefits they will ever be personally able to collect.

We have all received heart rending correspondence from constituents who have not been able to receive such benefits. They are usually in desperate financial situations after long and costly illnesses and are looking for some means of relief. They do not want to collect welfare. For many of them to be put on the welfare rolls at the end of their lives is the final and ultimate humiliation.

Yet even when some of them finally resort to the collection of welfare, they run into obstacles. I would like to read a couple of sentences from a letter from one of my constituents whose son-in-law was dying of a brain tumor:

My son-in-law was operated on for a brain tumor on October 11, 1978. The physician gave him 3, probably 6 months to live. They have used up what money they had and their insurance had not been in force long enough as he had just changed jobs . . . I have paid some of their rent but, since I am a widow I can not pay much on a second household . . . His regular social security checks will not start until March 3 . . . His welfare will not start until April, the end of his 6 month period . . . He is taking medicine that costs about $90 a month.

This young man died on February 24, his wife destitute, several weeks before he could collect his disability insurance check. I submit this correspondence for the RECORD.

There are those who would say this amendment costs too much money. I agree that $100 million is a lot of money. However, we must continue to be the humanitarian Nation we have always been. We must not, in my opinion, sacrifice the pride and comfort of our citizens in our efforts to save.

Almost 400,000 people will die of cancer this year. Millions will be afflicted. These people who want to receive these benefits are not asking for charity, not asking for welfare benefits, they are asking for social security benefits, benefits they have earned.

The high cost of dying of a terminal illness is something that many of us will unfortunately be acquainted with. One in four of us will either have cancer or have a relative who has cancer, not to mention other fatal illnesses. At this time in a person's life when they are spending enormous amounts of money to prolong life for an additional month or just to relieve the pain of dying how can we say the terminally ill are not special, not worthy of some additional consideration, not worth the estimated $100 million next year. I for one cannot.

I have, however, made the effective date the next fiscal year in order to expedite the budget process this year.

There are those who would say these people can collect welfare benefits. The correspondence from my constituent speaks eloquently of that problem. But, in addition, can any of us here say that if we were dying we would feel comfortable having to collect welfare benefits. If there is recourse available to these people to collect money they can feel they have earned, are we not adding to the burden of dying by saying if you have a problem you can collect welfare, become dependent upon the State in your final months even though you have worked proudly all of the rest of your life.

There are those who have said the terminally ill are not special in terms of disability. I submit they are for two reasons. First, the terminally ill are usually at the end of a long and costly illness not at the beginning of a disability. Second, these people will never collect any other disability insurance personally. They will never collect old age benefits. Two years hence they will not be collecting SSI benefits. For most of these people, according to the American Cancer Society estimates, well over 90 percent of them, the 5 months we are talking about is the only 5 months they will ever receive benefits. That alone distinguishes them.

I understand there is a possibility we may be ruled nongermane. While I do not totally understand the fine points of germaneness and would never question the technical accuracy of such a ruling I feel very strongly that on a practical level this amendment should be considered germane. It, like all the other amendments in the bill, amends the disability insurance benefit provision. It is a substitute to a demonstration project on terminal illness and section 303(b) of the bill amends the same section of the law we are amending. So, on a practical level, I do not believe it is a new subject for this bill.

I would hope that my colleagues will join me in supporting this amendment to help alleviate some small portion of the monumental financial difficulties involved in terminal illness through a means that helps maintain the dignity of the recipient because the money is earned benefits, not welfare, not charity.

The correspondence follows:

FEBRUARY 28, 1979.

DEAR VIVIANA: I wrote you about my daughter's husband.

They returned the paper giving you authority to check his records about Welfare and SSI. Well, they delayed the Social Security and Welfare checks long enough so they did not receive any. I believe they received two SSI checks. They did have a medicaid card for medicine and they got food stamps.

He passed away on February 24th.

Thanks for trying to help them.

Yours truly,

FEBRUARY 12, 1979.

DEAR MR. BAYH: I would like to have some information and possibly, some additional help for my daughter.

My son-in-law was operated on for a brain tumor on Oct. 11, 1978. The physician gave him 3 and probably 6 months as he could not remove all of the tumor.

They have used up what money they had and their insurance had not been in force long enough as he had just changed jobs. They are both 39 years old.

I have paid some of their rent but, since I am a widow, I can not pay much on a second household. My apartment is not large enough for 2 families.

My daughter was working part time at 2 places. They were getting some Social Security Supplement. Then the SS said she made too much and they reduced the Supplement $100.00. His regular SS checks will start 3-3-79.

His welfare will not start until April, which will be the end of his 6-month period. He is taking medicine that costs about $90 a month.

Would you please let me know if this is the best help that they can get. Why can't his SS start earlier and, also, why does it take 6 months before the welfare can pay. What is the maximum that my daughter can earn? She has her application in at General Motors plants in Anderson.

If there is something you can do to help, please let me know. At that time, I will let you know their names.

Thank you.

Yours truly.

To summarize very briefly, this amendment is the result of some very personal experiences that were brought to the attention of the Senator from Indiana, which I think are similar to experiences that have been shared by every colleague because we all deal with constituents who are confronted with terminal illness, basically cancer.

The problem is this. We are all familiar with the fact that we have a significant waiting period after one becomes disabled, before he or she can draw disability provisions. The basic reason is to prohibit fraud, to prevent or limit the incidence of fraud, and, as a result of keeping people off disability, to cut down the cost of the program.

One who loses a leg or is otherwise disabled does qualify at the end of 5 months and can then draw disability payments, theoretically, for the rest of his life, or her life, or through the period of the disability.

In the event one is disabled because of terminal illness and is required to wait the 5-month period, the statistics, as brutal as they are, point out that more than half of all those people do not live the 5 months. So they never qualify for disability payments.

What I would do in this amendment is, upon certification of terminal illness, permit the person to start drawing disability payments.

I point out that at a time someone has been declared terminally ill. there is a dramatic need to provide assistance. There is all the increased cost, the loss of income, and the indescribable emotional circumstances that surround a family confronted with that kind of situation.

It seems to me that is a time the Government should be compassionate and should say, if a person has been declared terminally ill, that we are not going to quibble about whether he will live 5 months or 6 months or 7 months, that we are going to permit him to qualify for disability.

Mr. President, I ask unanimous consent to place in the RECORD data relative to the cost of the program before us.

There being no objection, the President ordered to be printed in the RECORD, as follows:

From: Harry C. Ballantyne
Subject: Eliminate the Waiting Period for Disabled Persons Who Are Terminally Ill—Information

The attached draft bill would eliminate the waiting period for persons with "a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months." For the purpose of the cost estimates shown below, it was assumed that this meant death within 12 months after the onset of disability.

In preparing the estimates, it was assumed that payments for the months in the waiting period would be made to disabled persons who are diagnosed as terminally ill, but who nevertheless live for 12 or more months after onset of disability, and that there would be no requirement to return these payments. On the other hand, if an illness which is not diagnosed as a terminal illness does nevertheless result in death within 12 months, a retroactive payment would be made for the waiting period. Thus, the cost of the proposal is higher than it would be if all payments were made retroactively in only those cases in which death actually occurs within 12 months of onset, but it is difficult to estimate how much higher.

As a rather arbitrary assumption, we assumed the cost of the proposal is about 50 percent more than it would be if all payments for the waiting period were made retroactively after the occurrence of death within 12 months. The resulting estimates of additional benefit payments in fiscal years 1980–84 are shown in the following table.

Additional benefit payments

(In millions)

Fiscal year	Proposal as drafted	Retroactive payment of benefits after death within 12 months
1980	$150	$100
1981	180	120
1982	200	130
1983	225	145
1984	250	160

It is estimated that about 100,000 disabled workers would be affected in the first full year under the bill as drafted. (If all payments were made retroactively, the number would be about 75,000.)

The above estimates are based on the assumption that the draft bill is enacted in August 1979, making the proposal effective for final determinations made in August 1979 and later. The estimates are also based on the intermediate assumptions in the 1979 Trustees Report.

HARRY C. BALLANTYNE,
Acting Deputy Chief Actuary.

Mr. BAYH. I yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, the Senate is currently considering an amendment which would eliminate the 5-month waiting period for social security disability benefits for terminally ill persons. This amendment will help the terminally ill and their families meet their medical expenses.

It is estimated that as many as 1,000 cancer patients die daily in the United States.

I am now directing myself not to persons with disabilities, such as the loss of a leg, which are also serious, but to cancer patients that have been told by their doctors they just have to sit and wait until they die.

The family's shock on learning of the disease and the emotional toll on the family during the course of disease cannot be measured. Nothing we do here today can change that.

However, we can help the patient and their families meet some of the overwhelming expenses incurred during this traumatic period. We will not be doing this as any kind of special favor.

Since we introduced the bill which this amendment is patterned after, S. 1203, I have—as well as many other Members of the Senate—received many letters from cancer victims and their families supporting the repeal of the waiting period.

A common theme is noted in these letters—a loved one is ill with terminal disease and cannot get social security benefits for 5 long months. Sometimes they must wait longer than that for the benefits to be processed.

The loved one may be dead before the 5-month waiting period is up. The family has worked for years and always paid into social security. They have paid their dues.

I am then asked if the current law is fair to these people. While I could mention the need to preserve the fiscal integrity of the social security program, I do not think this response would be of much comfort to them.

It is unfair to deny social security benefits to persons who have paid for them. It is even more unfair to deny these benefits to a person and his or her family at a time when they are badly needed, before a loved one dies. By repealing the 5-month waiting period for the terminally ill we are remedying this inequity.

There are many, many thousands of cases where a doctor informs a person he has got cancer and has a short period to live. They often die before they get a chance to use the social security benefits they paid for all those years.

Mr. President, I would like to take a moment to recognize one man's contribution to our awareness of this issue—Mr. Howard Dalton, of Everett, Wash.

Mr. Dalton learned that he had terminal cancer late last year. He learned shortly thereafter that the law required he wait 5 months for social security benefits. His doctor did not think he would live long enough for him or his family to receive any benefits.

Since learning of this law, Mr. Dalton has been vigorously battling his own illness and also working on behalf of many others who suffer from terminal illnesses to acquaint the public and this Congress with the inequity in social security law. Our consideration of this amendment today owes much to his efforts.

I believe he presented some very vivid testimony before the Finance Committee in support of this amendment.

The Senate today has an opportunity to insure that duly earned social security benefits be given to the terminally ill and their families when they most need economic assistance, at the time they first learn of their illness. I hope the Senate will support this amendment to repeal the 5-month waiting period for social security disability benefits.

A Seattle Times editorial succinctly summarizes the need for this legislation. Mr. President, I ask unanimous consent that the Seattle Times editorial, "Cruel Irony Mars Social Security Law" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Seatle Times, Jan. 31, 1979]

CRUEL IRONY MARS SOCIAL SECURITY LAW

Disabled by a cancer that doctors say will take his life within the next few months, an Everett man has been told he is fully eligible for Social Security disability benefits.

But there is a cruel irony in the case of Howard Dalton: He may not live long enough to receive any payments.

Dalton and countless other clients of the Social Security system—individuals who have shared with their employers the costs of financing it—cannot receive prompt benefits resulting from a medical impairment that can be expected to last 12 months or to end in death.

That is because the law says benefits cannot begin until a worker has been totally disabled throughout a waiting period of five months. The first month's benefit is for the sixth full month of disability and is payable early in the seventh month.

When Congress enacted the disability phase of the Social Security program more than 20 years ago (with a waiting period even longer than it is now), the objective of delaying benefit payments was to keep program costs down.

The legislation plainly ignored the plight of people like Dalton who has been told that the most optimistic medical forecast is that "I would last 8 to 10 months as of last Thanksgiving."

Dalton is more fortunate than many, in that he has sufficient private resources to pay his bills. The government provides early supplementary income aid in certain circumstances, but eligibility is confined to those with very low earnings.

Local Social Security officials say they cannot make exceptions. The law is unequivocal regardless of special circumstances. Worse, even when the waiting period is over, there are no provisions for retroactivity.

An administration spokesman says abolition or modification of the waiting period would add significantly to Social Security tax payments for workers and employers—as much as 1.25 per cent of the taxable payroll.

All of which provides a fresh argument for relieving the Social Security system of disability and Medicare obligations, shifting them to the general tax fund instead.

Meantime, the case is strong for amending the law to allow a measure of flexibility in handling claims by the terminally ill and others in unusual circumstances.

A caring and conscientious congressman would move quickly to seek just such an amendment.

Mr. MAGNUSON. Mr. President, I know that this amendment may cost the Treasury some money. If a person who pays into social security is terminally ill and dies within the 5-month waiting period, the Treasury makes some money.

That is a devil of a way to collect money, is it not?

I hope the committee will accept this amendment. It applies only to those people who have been declared terminally ill and are likely to die within a 12-month period.

Sometimes it takes 6, 7, or 8 months by the time they are through making out the papers and everything else.

I speak for the cancer victims. The Senator from Indiana talks about other disabled people. It is a shame.

I do not think any government wants to collect money because someone has the misfortune to have cancer and dies before they have a chance to use some of the money, some of the benefits of their social security funds, which is all they have.

The Treasury might make a little money, too, if they die within 2 or 3 months. Then they do not have to pay for the entire 5-month period.

This is very unfair. It is a dickens of a way for the Treasury to collect money.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield myself such time as I may require.

Mr. President, a parliamentary inquiry.

In due course, I expect to make a point of order that the pending amendment is not germane. However, I do not desire to prevent Senators from expressing their views on the subject, in view of the fact that the amendment is pending. I inquire of the Chair if it in any wise prejudices the rights of the manager of the bill to make that point of order if he waits long enough for someone to offer an amendment to the amendment?

The PRESIDING OFFICER. The Senator has an opportunity to make his point of order at the time of the completion of the allotted time for consideration of the amendment.

The Senator, at the same time, would not lose his right to make that point of order in the event of an intervening amendment to that amendment.

Mr. LONG. I believe the Senator from California wishes to offer an amendment.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MAGNUSON. I know there are several Senators—who are not in the Chamber at this time—who want to speak on this amendment, including my colleague from the State of Washington, Senator JACKSON. I am sure the Senator from Indiana is not through, either.

Is the Senator from California going to speak to this amendment?

Mr. DOLE. No.

Mr. MAGNUSON. Could we set aside this amendment temporarily?

Mr. LONG. Mr. President, I believe I should speak to the amendment for a few minutes, because it will be my reluctant duty to oppose the amendment, and I think I should explain my reasons.

The disability program has cost the Treasury far, far more than anyone ever estimated. It was the privilege of the Senator from Louisiana to support the disability program when it first became law. At that time, we represented to the Senate—those of us who were sponsoring the amendment—that this was going to cost about one-half of 1 percent of payroll. This program now is costing us about 2 percent of payroll. It is costing us about $15.6 billion.

That is the case because of an element of compassion that exists in almost every human being which tends to cause one's sympathy to go out to a person who is partially disabled, even though that person may not be totally and permanently disabled as required by the law.

Because of that, when people take appeals from the decisions in the Department of Health, Education, and Welfare, or before the examiners at the State level, who are not known as people with hearts of stone, about 50 percent of the time the appeal is successful. In the event it is not successful, and they go to court with it, about 50 percent of the time they win the lawsuit.

If we were required to waive the waiting period, the additional cost to the program would be about $3 billion a year, or almost another one-half of 1 percent of payroll; and that would have to be paid in addition to the social security tax increase which everyone in Congress is worried about at this point. Of course, that is not being proposed in this amendment.

This amendment is estimated to cost $850 million over the 1980–84 period, and $165 million in the next year.

Mr. MAGNUSON. Is that for a 3-year period?

Mr. LONG. $165 million in 1981.

Mr. MAGNUSON. I wish the Senator would say the annual cost.

Mr. BAYH. They are not the figures I got from Social Security.

Mr. LONG. I understand.

Mr. President, let us discuss the case of cancer, for a moment or two.

I have known a lot of people who have had cancer and who have had terminal illnesses. In my experience, I am not familiar with any of those people being fired from their jobs or ousted from their positions because they had cancer.

I know of a lot of brave people, many of whom were friends, who carried on courageously until the very end, until they were bedridden and simply could not perform.

I recall one good example of a very fine man who was a good friend of mine. He was working for the Federal Government. This person had terminal cancer. He was determined to carry on and did so, bravely.

I was discussing his situation at one time with the President of the United States, at the White House, and the President insisted on giving the man a telephone call and congratulating him for the fine job the man was doing for his country, and the man appreciated it very much.

In due course, we found that some of his fellow employees wanted this man to retire. Under the Federal law, as a Federal employee, he could have taken retirement partly because of his illness. This person was outraged about it. It turned out that his fellow employees felt that they would be promoted. About four or five people on the ladder would move up one step if this man stepped aside. So his fellow employees would have liked him to retire so that they could have a promotion.

What usually happens in cases in which a person has a terminal illness—cancer, in particular—is that his fellow workers share some of his burdens so that that person can do the job to a greater extent that he would otherwise.

We can find no more obvious example than that of Hubert Humphrey, one of the great Senators of all time, who served with distinction right until the last couple of weeks before the good Lord called him home.

I recall Dr. Schuler, on the "Hour Of Power," tell about how Hubert Humphrey's family called Dr. Schuler and urged him to talk to Senator Humphrey; and the doctor urged him to go back to the U.S. Senate because the Senator was not doing anything by being at home and suffering the pains that accompany cancer.

The Senator returned; and I am sure that everyone who was here to witness his return regarded it as one of the most impressive things they have seen in the U.S. Senate—the magnificent speech that courageous man made, and the inspiration he gave to every Member of this body while he was suffering from cancer, until nearing the end.

I recall sitting with that great Senator in one of the rooms just off the Senate Chamber and hearing him say that he was not going to go quietly; that he was going to go out with a whoop; that he was going to stand here until the end and advocate things in which he believed.

But, if someone had to get out of bed late at night to come down here and make a quorum we would not have demanded that Hubert Humphrey do that. That is something the rest of us could do. Likewise, on some of the tedious work that need be done, other Senators would be perfectly content, and glad to share the burden, because one of their Members was ill. That is usually what happens.

Just this morning, coming to work, I was discussing this very fact with a lawyer who, in my judgment, is a very great lawyer, a very talented, able man. I mentioned the fact that, to my knowledge, I know of no one who has been fired from his job because he had cancer. This particular lawyer said that, in his firm, they had four lawyers with cancer. One of them just got through negotiating a renewal of his contract with the firm, and they gave him a pay raise.

Just because you have cancer does not mean that your brain is not functioning. It does not mean that you cannot do anything.

Mr. President, when we tell people with cancer, "You are going to die, you are disabled, you cannot do anything," it tends to make those people give up. They should be encouraged to try and live as long as they can and make the best contribution that they can.

We had a very impressive witness come before the committee, and he was well known to the Senators from the great State of Washington, testifying for the amendment. It turns out that the witness himself was one of the best examples of why the amendment should not be agreed to. That was a man, himself, who had such a problem, making a very noble and fine contribution. He was a useful citizen of this society and he was continuing to make a substantial contribution.

If we are going to waive the waiting period for people who have cancer, well knowing that those people can make a contribution, they are not totally and permanently disabled, they can still make a very useful contribution, then how do we justify not waiving the waiting period for those who actually are disabled and cannot do anything, nothing whatever?

In other words, far more than one who has cancer but who can make a useful contribution and can do his job and, in fact, can do it, how do we justify not waiving it for those people who are, in fact, disabled and, in terms of the statute, let us read that language there. Here is what the statute says. Let me read the exact words. I will ask the staff to find those words. Let me read:

The term "disability" means (a) the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of time not less than 12 months.

Then it goes on.

Mr. President, the key words here are "inability to engage in any substantial gainful activity."

The reason that the program is costing four times the estimate, the reason it is costing $14 billion rather than $4 billion is that of the compassion of people to find ways to declare a person unable to engage in any substantial gainful activity when in fact that person is able to engage in a substantial gainful activity.

Mr. President, under our present budget we are confronted with a situation where there is more money being spent on social welfare programs than there is on the defense of the Nation. The defense of our Nation has had a smaller and smaller share of the budget to the extent that if we were required to go to war with the greatest military power in the world we would have to put our young men in the air to attack that great military power in airplanes that are 30 years old.

Who would like to have his son take off to attack the greatest military power in the world in 30-year-old airplanes? I would hate to try to get somewhere in a 30-year-old automobile, much less in a 30-year-old airplane. But we would be confronted with that.

We have old ships that are not adequate for the needs of a modern-day Navy. We do not have the tanks, and we certainly do not have the modern tanks we should have for the fulfillment of our defense commitments. We need far more than just a 5-percent or even a 10- or 12-percent increase in our purchase of hardware. We should have a 100-percent increase.

We are not providing adequately for things that are vital to the survival of this Nation. And we go ahead, Mr. President, spending more and more money on social services where it is not absolutely necessary.

I have struggled in the vineyards of economy from time to time, and it is the impression of this Senator that what wrecks our budget is not the outright waste, it is not the case where someone is stealing money, or spending money that has no justification for it, but it is the case of marginal spending, spending on things that are not absolutely necessary.

Mr. President, in the social welfare areas we have a great number of examples. Just to give one, no one ever thought when we started the unemployment insurance program that it was to be a guaranteed vacation with pay program and yet, in many cases, it has become one.

For example, one of this Senator's friends retired recently from Exxon in Baton Rouge, La. He had earned a good retirement and he took advantage of it. I was shocked when I heard that someone told him he should go down and apply at the unemployment office because he could get a year of unemployment benefits to supplement his retirement benefits—under a very fine retirement program in and of itself, supplemented by the social security payments.

The man at the time said it looked to him like that would be just stealing to go down and take this unemployment money in addition to the social security pension, and in addition to the private pension that was available to him.

But the people said, "Look, all the rest of them do it, and you ought to do it too."

Then, Mr. President, I looked into the matter and found that in some States legislation has been passed not only to implement this approach, that a person who has earned a generous retirement would be paid the unemployment insurance money as well, but I learned that in some States they have actually passed laws through the legislature to require the employer to advise that employee that when he retires he can have unemployment benefits as well as having a private pension and as well as having a social security payment.

That is just one example of areas where we are spending just a lot of money.

It is the judgment of some Senators on the Committee on Finance that in the unemployment area alone there is at least $3 billion a year of unnecessary spending. This is not to say that this benefit for retirees might not be helpful, it might not be comfortable, or it might not be justified under certain circumstances. This is merely to say that we could get by without having a program that would pay people unemployment benefits when they have actually retired and are not available to take a job somewhere.

Now, this case, Mr. President, of course, has a lot of sympathy, to support it. All I can advise the Senate is that the more we get into this thing, the more it costs, and the more it will cost. The more you do this sort of thing, the more you will do. The more precedents you set like this, the more precedents you will have to set. The more you extend these programs, the more you will be required to extend them in the future.

How can we tell these people who are not actually disabled to the extent that they can have gainful employment that they must have no waiting period when we have other people who are truly disabled who would be required to have the waiting period?

Yes, I have complete sympathy with those people. But, Mr. President, if I should be taken down with cancer tomorrow, I would not resign from the U.S. Senate. I would continue to carry on, and I would somewhat resent anyone suggesting that I should declare myself disabled because I had cancer.

I would hope, Mr. President, that we would recognize that as much as we like to do some of these things there is a limit to the capability of the taxpayers to pay for all of that, and this program is far beyond its estimate already, and should not be drastically expanded with a floor amendment of this sort.

Now, in due course, I will make a point of order, Mr. President, because I believe the amendment is not in order. But I did feel it was my duty to display my reasons why, on the merits, I do not believe the amendment should be voted by the Senate.

Mr. MAGNUSON. Mr. President, will the Senator yield for a question?

Mr. LONG. Yes.

Mr. MAGNUSON. I have figures, and I think the Senator from Indiana has figures, from social security that this will cost approximately $100 million a year. I agree with the Senator. I have to struggle with these appropriations all the time.

The Senator, however, mentions all of these abuses of unemployment insurance. Well, let us take $100 million out of there, or $200 million, or $300 million, or $400 million, and put it someplace where it is a question of whether this is fair or not. It is not a question of whether you have cancer. It is a question of when you are declared terminally ill and are going to die, a certain period of time, maybe 1 month, maybe 2 months, maybe 3 months, and you have to wait, you paid in social security all your life, and I just do not see the comparison between some of the ways the Senator points out in social security and what we adequately trim in order to take care of a situation that is obviously unfair to people who have paid in social security.

I have a figure that it costs about $100 million a year.

Mr. LONG. Mr. President, just permit me to say this: We are going to have to cut back on social security.

Mr. MAGNUSON. You can cut back on all kinds of things.

Mr. LONG. Not to finance other things—we will have to cut back just to stay within the budget resolution. I will have to do it. It was my painful duty to

do that. We voted for the budget process, and when the Senate passes a budget resolution we have to provide for that.

Mr. MAGNUSON. You are revising social security, on which you have done a good job, but this is being very unfair. We cut back about $6 billion in social security—I mean social needs in the Appropriations Committee.

Mr. LONG. Let me just make a point, Mr. President.

Mr. MAGNUSON. Last year we cut cut back, I might say to the Senate, $8 billion, $8.1 billion.

Mr. LONG. Mr. President, it might shock some people to hear this, but every person within the sound of my voice is going to die. Every last one of us will die. It is just a matter of when.

The question of whether we are going to pay these disability benefits out depends really under the law upon the extent to which a person is disabled. We have a waiting period. Here is just one good example—here is a Mr. Dalton, a very fine, impressive witness, testifying before our committee for this amendment.

He said he was told by the doctors in November 1978 that he had 6 or 8 months to live.

When he was testifying before the committee, that was 12 months later, and the man showed no signs of being in extremis at that point.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. BAYH. I think, with all respect—I know how compassionate the Senator from Louisiana is, and I know how sensitive he is to spending money—but I have to say that the Dalton example and the Humphrey example argue for the point expressed by the Senator from Indiana and the Senator from Washington that those people would not qualify for for disability. Those people would not be covered under this.

What we are after is not somebody who is going to be fired because he has cancer, because most cancer patients want to work as long as they can. But when the good Lord gets ready to grab hold of you, and you are in that bed, and you cannot work, what we are saying is you ought to have a chance to get some of that social security you paid into the social security system to pay for the groceries and for your children. That is all we are saying.

I appreciate the Senator's yielding.

Mr. LONG. Mr. President, we have a program that is costing $15 billion a year. By current standards it was supposed to be costing us $4 billion a year. How do you account for the fact that it is costing four times what we estimated? Well, the reason, Mr. President, is when someone comes in with a compassionate situation the people in the Department who see that are inclined to go along with him because they feel sorry for him, and I do not blame them. I would tend to be the same way if I had that job.

Likewise when they appeal it. Then the person who hears it on appeal is inclined to allow benefits.

Then, if they lose their appeal, they take the case to court. What does the judge do? He looks at that person and sees there a person who, for all we know, might be on a job right then, might be working on the job, but the person makes a pitiful case before the judge, and what does the judge do? He decides the person is disabled and he puts him on the rolls. He knows he fudged on the law, but he goes back home and sleeps well that night. He knows, although the person was not totally disabled, he felt like he did a good deed like he did.

Mr. President, I have done things like that in one respect or another and felt proud about it.

I recall one time a young man went over the hill and was gone for a long time. I reviewed that court-martial and found an excuse to throw it out on a technicality. I recall that my superior in the Navy asked me how could I do that on that technicality. I was saying that a muster roll that was certified by Randall Jacobs, the head of personnel of the U.S. Navy, was not a muster roll. That was a technicality because it was only an excerpt from a muster roll. I said, "Randall Jacobs will never challenge this. This will be the kind of case that will make you shed a tear when you see what happens with that young man, and there will not be any argument from Randall Jacobs or anybody else," because nobody would dare challenge what I was suggesting, or what was actually happening in that pitiful case.

So when people see people who are not totally and permanently disabled as the law requires, but who are sick, who are ill, who are going to die, their compassion reaches out and they will say they are disabled even though they know those people can still make a contribution, they can still be useful. Many times they are doing it at the time they are making that application.

To waive the waiting period, Mr. President, because the man is about to die—well, there is no better excuse for doing it in that case than it is for doing it in a case where a person is totally disabled and cannot do anything at all.

Mr. BAYH. Mr. President, I yield 5 minutes to the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, I am pleased to join with Senators BAYH and MAGNUSON, and 28 other Members of the Senate, in sponsoring this amendment to H.R. 3236—the social security disability bill which is now before the Senate. Our amendment will provide immediate disability insurance benefits to terminally ill persons—benefits they often desperately need. Under current law, all disabled persons are required to wait 5 months before receiving disability benefits, regardless of the immediacy of their needs or prospects for recovery. This creates an inequitable situation whereby terminally ill patients receive no help from social security during the first 5 months of their disability, and will, in fact, never receive assistance from the fund if they die during that period. Social security benefits are not paid retroactively, and therefore, an individual afflicted with a terminal illness may be without means to meet the high costs of medical attention and care so often needed during the last months of their lives. Quite simply, at a time when these persons most need assistance, and after they have paid into the system for insurance against this very type of tragic occurrence, they cannot obtain it.

Mr. President, this is a situation that begs for remedial action by Congress, and I believe that the amendment we are offering today to the social security disability bill offers the sort of relief that is warranted for those who are suffering from a terminal illness and are incapable of work.

Thousands of Americans each year discover that they are afflicted with a terminal illness and then must face the prospect of dealing with a Government agency which to them appears uncaring and unmindful of their desperate needs. In this regard, the Senate Finance Committee has itself recognized the needs of the terminally ill by including within the disability bill authorization for the Social Security Administration to participate in a demonstration project conducted by the Department of Health, Education, and Welfare. This project would study the impact of current provisions of the disability program on the terminally ill to determine how best to provide benefits to these people through Social Securtiy Administration programs. The committee has recommended that $2 million be appropriated for participation in this demonstration project.

Mr. President, I believe that this provision in the bill indicates that the Finance Committee recognizes the terminally ill as a distinct class of benefit recipients who deserve special attention, and recognizes there is a difference between one who is dying and one who is suffering a long term disability. But the fact is, we do not need to spend millions to studying their plight. We know that the terminally ill need social security benefits immediately upon determination that they are completely disabled and that death is impending. Their need is buttressed by the fact that they have quite often exhausted their own financial resources by the time that it is determined that they can no longer work, and the fact that most terminally ill individuals die within the five month waiting period after they have been determined by the Social Security Administration to be totally disabled. The consequence is that most terminally ill patients never receive social security disability insurance benefits.

Mr. President, I have become personally aware of the needs of the terminally ill over the past few months as a tremendous number of my own constituents have written in support of the measure we are offering today. Their plight has been championed by a man from my own home town of Everett, Washington, who is himself plagued with virulent lung cancer and has been told that he must put his affairs in order and prepare to die. His name is Howard Dalton, and he

has valiantly fought to see that the law we are considering today is amended to take care of those who most need assistance. I believe that their needs and his efforts should not go unrecognized as their cause is both just and reasonable.

Mr. President, my own investigation into this problem leads me to believe that the amendment we offer today is adequate to meet the needs of the terminally ill, and is well tailored to meet the fiscally conservative standards which we have set for ourselves when considering programs which will add additional, and potentially costly, benefits to the social security program. In this regard, it is my understanding that the Social Security Administration estimates that the program will cost an additional $100,000,000 if implemented for an entire year, and will cost much less if implemented during this fiscal year. This is not an exorbitant amount when it is considered that it will help thousands of Americans to meet the financial crisis which often accompanies terminal illness. I would hope, therefore, that the Senate will give serious consideration to our measure and amend the Social Security Act to provide disability benefits for the terminally ill.

Mr. President, I yield back to the floor manager the remainder of my time.

Mr. BAYH. Mr. President, I deeply appreciate the concern expressed by both Senators from Washington. I think what we are trying to do does not create wasteful programs, but we are trying to deal with very unique problems of pain and suffering.

I yield 5 minutes to the Senator from Tennessee (Mr. SASSER), who is, unfortunately, in a uniquely qualified position to speak with personal experience on this matter.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Indiana for yielding.

Mr. President, today I rise in support of the amendment offered by my friend from Indiana (Mr. BAYH). I want to commend the Senator on his initiative and timeliness in introducing this proposal to eliminate the 5-month waiting period for terminally ill disability applicants.

Mr. President, it is appropriate that the Senate take this action today. The elimination of the 5-month waiting period will help remove an onerous financial burden from terminally ill workers and their families, who are already carrying burden enough.

The 5-month waiting period translates into a 6-month process, Mr. President. Benefits are paid only for the first full month after the waiting period, meaning the applicant's first benefit check arrives during the seventh month. Prior to 1972, the waiting period was 6 months; benefits were not received until the beginning of the eighth month. And despite the financial hardships faced by the terminally ill worker, the law requires a waiting period to reduce all doubt of possible recovery. Tragically, the worker may never survive the waiting period.

The law thus denies timely benefits to terminal patients who have contributed to the disability trust fund. The contributions were made in good faith, with reasonable assurance that the worker would be able to reap some limited benefits from his contribution. And a technicality, Mr. President, a mere technicality denies terminally ill disabled workers from receiving benefits when they are of critical importance.

Let me quote the words of Justice Cardozo, in *Helvering* v. *Davis* (301 U.S. 619):

> Needs that were narrow or parochial a century ago may be interwoven in our day with the well-being of the Nation. What is critical or urgent changes with the times... The hope behind this statute is to save men and women from the rigors of the poor house as well as from the haunting fear that such a lot awaits them when journey's end is near...

The 6-month waiting period, as well as the present 5-month process, were established at a time when medical diagnosis techniques were imperfect. Terminal cases could not be diagnosed with certainty. Due to improvements in education and technology, diagnosis techniques are more sophisticated. Little doubt usually exists over the terminal or nonterminal nature of an illness.

Terminal patients often suffer from mental anguish as well as a physical impairment, due to worries over financial matters. This fact can be seen in a letter I received from the wife of a disabled constituent:

> I am writing to thank you for getting my husband his disability, which will start in May if he is still living. . . . that really helped him to know that we could look forward to some sort of income.

Unfortunately, this constituent died in March, exactly 5 months after his application for disability benefits.

Objections have been raised to the amendment based on its cost. It is true that it will require some $82 million in new money. The Social Security Administration, however, predicts that on the average, only 2½ months of the 5-month period would be used. This could translate into a cost savings for social security as funds are distributed more efficiently over a relatively short time span.

The average benefit available under this amendment is only $320 a month; $320 a month, Mr. President, for medical costs that averaged $19,054 in 1972, according to a study done by Cancer Care, Inc. That is roughly $25,000 in 1979 figures.

Ideally, we would now be considering the elimination of the waiting period for all disability applicants. The case of the terminally ill worker is urgent, however. Medical costs continue to increase, and the specialized care needed by the terminal patient repidly exhausts any available funds.

I see this amendment as a new beginning, Mr. President—one step toward making Government programs more responsive to the needs of the people they are supposed to serve. As Justice Cardoza said, "What is critical or urgent changes with the times." The time for action is overdue.

I urge the Senate's approval of the proposal.

I thank my colleague from Indiana.

Mr. BAYH. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Indiana has just under 11 minutes.

Mr. BAYH. Mr. President, I point out that I have always found and have known the Senator from Louisiana to be very compassionate individual who likes to help people. And it is only because of the extreme urgency of this particular question and the fact that if we do not attach it to this particular bill the ball game is over for the rest of the session. This is why the Senator from Indiana would resort to this particular procedure.

I also point out that the measure which is being added to this particular bill at this time has been in the Finance Committee for some period of time. It is not something on which we are catching anyone by surprise. I just want to alert my colleagues in the Senate of that.

We are talking about individuals who qualify for disability insurance. Someone who meets the criteria described very graphically and dramatically by the Senator from Louisiana would not be qualified under this amendment.

Hubert Humphrey for example, worked right down to his last breath. The worker who is helped by his coworker so he can continue to draw a check, by definition, does not qualify as disabled.

What we are talking about here is not someone who is qualified to be gainfully employed but someone who is not.

It was mentioned that nobody has been fired because they had cancer. That may or may not be the case. But the fact of the matter is that cancer has a very devastating impact on human beings. I suggest that it is going to be very difficult to find anybody, an auto worker for example, who cannot check in at that clock every morning will remain on the payroll because if he or she is not working, if they are not turning the nuts and bolts on that production line, they are not being paid.

We are talking about someone who, because of physical disability, created by a terminal illness, cannot work, cannot maintain any substantial employment, in accordance with the specific wording in the law already referred to by my good friend and chairman of the Finance Committee.

I must say we are talking about a rather unique kind of individual. I think the Senator from Louisiana pointed out that for most people who have cancer, who have a terminal illness, the therapy is to make each day count, to make it as productive as they possibly can. They try to ignore the fact that their time is limited and create as much opportunity for themselves and their family as they possibly can, as long as they have the strength to do so.

Because of the very nature of cancer as a disease, most of the patients I have had the experience to know will put off as long as they possibly can succumbing to disability and therefore resorting to using this provision.

I suggest when the time comes when they cannot lift up their hand or their head, then it seems to me it is time for the Government to say, "We are going to help provide for you and your

family during the last years of your life with money from a source into which you have been making contributions all your working life."

Now, I want to talk about the cost, because we are all very cost conscious. I have to confess to my colleagues that the real fact is that social security cannot give us good information on cost. However, I refer my colleagues to the estimates we received from the distinguished acting deputy chief actuary which I have already placed in the RECORD, who points out that, as drafted, this will have a total cost, in talking about a whole year for all citizens, of $150 million. Interestingly enough, if they had it paid retroactively, it would only cost $100 million. Mr. Ballentine then says that it is "a rather arbitrary assumption" because they really do not know.

The reason I think the retroactive level is probably more accurate is that the very nature of cancer and the very nature of terminal illness makes it almost impossible to defraud the system. So I think we are not going to have that extra amount that is mentioned in the advance payments assessment but rather will come closer to what social security said would be retroactive payment.

It is going to cost more than that next year. Social security said as a retroactive payment. If they use that figure, it is $120 million, and if it is paid in advance it is $180 million. Somewhere in that ballpark is probably what it is going to cost.

I would like to suggest I do not know of a better way to try to deal with the inequities that exist in the system than to pass his amendment. I cannot think of anything more inequitable than the system which presently exists, where a person can pay into social security all their life, and if they lose an arm or a leg and live for another 10 years they can receive disability payments. But we are not dealing with that situation.

The Senators from Washington, Tennessee, and Indiana are dealing with a situation where that person pays in all their life, gets cancer or some terminal illness, with a doctor certifying that they are terminally ill, and the statistics showing that they will probably not live the 5 months necessary to qualify. They cannot even get their social security money out of their account to help pay for their family expenses while they are dying. I do not want to be overly dramatic, but that is what we are asking.

Someone who has statistics to show that other disabled people they will not live long enough to cash checks on their own social security fund should be permitted to do so.

Mr. LONG. Mr. President, the Department of Health, Education, and Welfare is opposed to the amendment even though those in that department understand the problem. They point out that because of the uncertainties involved in these matters, there is no way of really knowing that a person is going to die within 12 months. Some people will live longer than that and some people will not live that long.

I point out, Mr. President, that it is difficult to see why we should deny one person who is totally disabled the benefit accorded to someone else. This would put pressure on doctors to certify that they think people are going to die in 12 months when the doctors do not really know.

As I say, Mr. President, if we extend this principle, that these totally disabled people should have the waiting period waived in compassionate cases—generally, every meritorious case is a compassionate case—I do not see for the life of me how we could decline on subsequent bills from extending this further.

The cost of extending the provision to all the disabled will be $3 billion a year. The pending amendment, of course, is a compassionate amendment. But, Mr. President, that extension is a matter we must eventually confront.

Mr. President, I must make the point of order that there is nothing in this bill which has to do with the waiting period. This amendment is to waive the waiting period and, as such, Mr. President, the amendment is not germane to this bill. When the time expires, I will have to make the point of order that the amendment is not germane. Under the unanimous-consent agreement, the amendment cannot be considered.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. BAYH. Mr. President unless there are others who want to talk on this, I do not want to appear at a disadvantage, although I have found that RUSSELL LONG's arguments can be made succinctly and no matter what you say afterwards it is pretty hard to keep up with them.

May I not prevail on the Senator from Louisiana, though he has made a good case—not to the Senator from Indiana—could we not let this rise or fall on the basis of a vote and not have the question about whether it is germane or not?

Mr. LONG. Mr. President, I will have to make the point of order. I will withhold the point of order until Senators have made their statements.

Mr. DOLE. Is there any time remaining?

Mr. BAYH. I am happy to yield whatever time I have remaining to the Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas has listened to the debate and I was present when the constituent of the Senator from Washington testified before the Finance Committee with very moving testimony. This is one of the issues we do not really like to confront. As the Senator from Louisiana pointed out, there are inequities in it. I believe there are others who are totally disabled, with spinal injuries and other injuries, who perhaps should be included. If we start that, I guess the cost goes up to $3 billion.

I have discussed this with a lot of people in my State of Kansas who feel very strongly about eliminating the waiting period. I assume that, to some, it is heartless if we do not do that.

The Senator from Kansas prepared two statements, one in favor of the amendment and one against the amendment. That is how flexible this Senator is on the issue, because it is a tough issue. We discussed it in the Finance Committee and we decided to include money in the bill for a demonstration project to test various means of aiding the terminally ill in lieu of eliminating the waiting period at this time.

I certainly sympathize with these individuals and their families. Certainly, there are some on this floor who have had personal contact with the tragedy of cancer. But the issue just does not exist in a vacuum. If we eliminate the waiting period for individuals who expect to die within 12 months, what are we going to do for those who are going to die in 12½ months or 13 months or 14 months? That is one of the points that troubles the Senator from Kansas.

Do we let the family doctor make the determination of terminal illness or do we require at least two doctors' opinions? What do we do with people who will live for a number of years with an expensive disability and have considerable medical bills?

Mr. BAYH. Mr. President, if the Senator will yield, would the Senator feel more comfortable with this if we required two doctors to attest to this terminal illness?

Mr. DOLE. That is one of the suggestions the Senator from Kansas is going to make at the appropriate time.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. LONG. Mr. President, I yield myself 1 minute on the bill to make the point of order that the amendment is not germane to the bill.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is it possible for the Senator from Indiana to modify his amendment to require two doctors' opinions instead of one? I want to be absolutely certain that anyone who is concerned about the fraud question of this issue will have his mind relieved.

The PRESIDING OFFICER. The Senator does have the right to modify his amendment.

Mr. BAYH. I offer such a modification and ask that it be inserted in the proper place, that two doctors be required to testify to the terminal illness of the patient.

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

The amendment, as modified, is as follows:

On page 39, between lines 11 and 12, insert the following new section:

"ELIMINATION OF WAITING PERIOD FOR TERMINALLY ILL INDIVIDUAL

"SEC. 105. (a) The first sentence of section 223(a)(1) of the Social Security Act is amended, in clause (ii) thereof—

"(1) by inserting '(I)' immediately after 'but only if', and

"(2) by inserting 'or (II) he has a terminal illness (as defined in subsection (e)),' immediately after 'the first month in which he is under such disability,'.

"(b) Section 223 of such Act is further amended by adding at the end thereof the following new subsection:

"'Definition of Terminal Illness

"'(e) As used in this section, the term "terminal illness" means, in the case of any

individual, a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months and which has been confirmed by two physicians in accordance with the appropriate regulations of title XX.'.

"(c) The amendments made by this section shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act filed—

"(1) in or after the month in which this Act is enacted, or

"(2) before the month in which this Act is enacted if—

"(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month, or

"(B) the notice referred to in subpargraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act shall be payable by reason of the amendments made by this section for any month before October 1980.".

On page 101, strike out lines 1 through 17.

Redesignate sections 506 and 507 as sections 505 and 506, respectively.

On page 32, amend the table of contents by adding at the end of title I the following item:

"Sec. 105. Elimination of wating period for terminally ill individual.".

On page 33, amend the table of contents by striking out the item relating to section 505, and redesignating sections 506 and 507 as sections 505 and 506, respectively.

Mr. METZENBAUM. Will the Senator from Indiana yield so I may ask to be added as a cosponsor?

The PRESIDING OFFICER. The Senator from Indiana has no time.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Ohio be added as a cosponsor.

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

The point of order having been made that the amendment is not germane and the bill is being considered under an agreement which reqiures that amendments be germane, the Chair sustains the point of order on the grounds that the amendment does inject a new subject matter.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Parliamentary, may the Senator from Indiana, having consulted with the two Senators from Washington, the Senator from Tennessee, and others, now, in order to get this issue joined, appeal the ruling of the Chair?

The PRESIDING OFFICER. The Senator may do so.

Mr. BAYH. Mr. President, with all deference and respect to my good friend, the Senator from Louisiana, who has a very difficult burden to bear, and with great respect for the present Presiding Officer, who is put in a rather difficult position at this moment, I must, in order to join this issue, respectfully appeal the ruling of the Chair and ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. There are 20 minutes on the appeal, equally divided.

Who yields time?

Mr. LONG. Mr. President, I yield myself such time as I require.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, when the Senate votes cloture and when the Senate enters into a unanimous-consent agreement, that is a compact among Senators to abide by their agreement. For the Senate to overrule the Chair in a situation of this sort is to stultify itself and to break our agreement when we entered into a unanimous-consent agreement. The advice of this Senator, every step of the way, has been that this amendment is not germane to the bill. There is nothing in this bill about the waiting period. This adds a totally new issue to the bill, it is not germane to the bill, and it does not fall within the unanimous-consent agreement.

Mr. President, Senators ought to stop this kind of thing, coming in here after they have made a unanimous-consent agreement and asking Senators to stultify themselves by saying something is germane when, under the rules, it is clearly not germane. This amendment is not germane to the bill.

To say we want to vote on the issue and, therefore, we want to ask the Senate to stultify itself and break a gentleman's agreement among Senators that we are going to bring this amendment up, it will be considered, and then to seek, by a majority vote, to break an agreement that is entered into by unanimous consent, Mr. President, is something that the Senate should not do.

Mr. President, the Senator should withdraw his appeal. I plead with him to do that. If he does not do it, of course, it shall be my duty to vote to sustain the Chair because the Chair has done his duty. Quite apart from the merits of the amendment, the Chair has done what any conscientious Presiding Officer, advised by the Parliamentarian, would be required to do under the circumstances.

I hope we are not going to try to set these precedents, bring up an amendment and when one in advised that the amendment is not germane to the bill and when we have had a ruling that the amendment is not germane, then insist on forcing Senators to vote on a motion to overrule the Chair, or ask Senators to overrule the Chair, to try to say it is germane when it clearly is not. The Parliamentarian, I must add, has clearly advised that that is so.

Mr. MAGNUSON. Mr. President, section 505 of the bill states:

The Secretary of Health, Education, and Welfare is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health, Education, and Welfare. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration.

It seems to me that this amendment is germane to that section of the bill. It mentions terminally ill. It mentions the program. It mentions the administration of the program and a study of the impact of the terminally ill provisions, specifically the terminally ill provisions, of the disability programs mentioned in the act.

I cannot see why it is not germane to that section of the bill. It mentions the terminally ill, specifically we are suggesting that the law be changed to carry out section 505 in a way that delivers services to the terminally ill.

Is that not what this amendment is all about? I suggest that the appeal from the Chair is well taken.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MAGNUSON. Yes, I yield.

Mr. BAYH. Mr. President, I must say that I think the assessment of our distinguished chairman of the Committee on Appropriations is very relevant here. Not only is he the chairman of the HEW Subcommittee on Appropriations and has a pretty good idea of what is relevant and germane in HEW and what is not, but he is also chairman of that committee that appropriates all the money and understands the critical nature of the expenditure, the importance of examining carefully where we spend dollars.

I suggest that it is very difficult—in fact, it is impossible—for the Senator from Indiana to see, if we are talking about germaneness—not the rightness of a provision, how the effort that we are making to say that if you have terminal illness, you should qualify for disability payments, can be ungermane to the language—and I quote as the Senator from Washington did—"to study the impact on the terminally ill of provisions of the disability programs administered," and so on.

Now, I do not know of a more germane issue. I do not know how anything can be germane if this is not germane.

I say this to both my distinguished colleagues, who play such an important role in the Finance Committee and are so ably managing this bill. I say this not in criticism, but so the record will be clear for those who have not studied this measure as closely as some of us who have been personally involved.

As far as the compact is concerned, as far as trying to avoid slipping something over that is unexpected is concerned, this amendment has been resting in the Finance Committee for some time. It has been clearly understood that we were trying to get an amendment to this bill for some time. It was heard in the committee because of the courtesy of the chairman. It was fully understood, I thought, that this measure was going to be presented on the floor at the time it was on the floor. But for circumstances which I still cannot fully understand, the unanimous-consent agreement was entered into without the Senator from Indiana knowing about it.

I take the blame for that. I am not

suggesting anything was tried to be slipped over on the Senator from Indiana. I hope none of my colleagues feel that we are trying to violate some compact by slipping something unexpected or unforeseen on them at this time.

I know at least 50 Members of the Senate who are cosponsors, or said they would support this measure, who fully expected a chance to vote on the merits of this measure at this time.

I regret, because of the parliamentary situation, we have to present the question on the point of order instead of on the merits.

Mr. LONG. Mr. President, section 505 of this bill, to which reference has been made, authorizes appropriations from general revenues for the Social Security Administration to participate in a demonstration project to study the impact of the present program on the terminally ill and how best to provide services to help them. The Bayh amendment provides an entitlement to benefits payable from the Social Security trust funds to terminally ill persons.

It is an entirely different program.

Mr. President, the mere fact that the bill says something about the terminally ill in the course of the bill does not authorize any new benefit for the terminally ill. A study is not a vast new entitlement program. It is an entirely different matter.

Everyone knows, Mr. President, that the cloture rule and the unanimous-consent rules on germaneness are a very narrow proposition in the Senate.

If the Senator had an amendment that would seek to expand the appropriation authorization in the bill, that might be different; to expand the authorized study in the bill might be germane. But here we have a whole new program that would cost, over the first 5 years, over $1 billion.

The Senator is saying that his amendment is germane because we have something in the bill that authorizes an appropriation—not an entitlement, but an appropriation—to have an experimental study with regard to a demonstration project on the terminally ill.

Mr. President, this Senator has been advised from the very beginning that this amendment was not germane to the bill. He looked into it, studied it, and the Parliamentarian did likewise.

Mr. President, the Chair should be upheld.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, who has time?

Mr. LONG. How much time does the Senator desire?

Mr. DOLE. Two or three minutes.

Mr. LONG. I yield 3 minutes to the Senator.

Mr. DOLE. Mr. President, I want to check first with the Senator from Indiana.

Was the amendment made to provide for a statement of two doctors?

Mr. BAYH. That is accurate. It is now part of the bill, part of the amendment.

Mr. DOLE. That has been added?

Mr. BAYH. Yes.

Mr. LONG. Mr. President. I make the point of order that is also new material in the bill.

Mr. BAYH addressed the Chair.

Mr. LONG. It is not germane.

The PRESIDING OFFICER. The question now is on the appeal from the ruling of the Chair.

Mr. DOLE. Mr. President, I point out that it seems to me we all want to do the same thing, and I hope we can reach some compromise to allow us to accomplish our goals.

In the Senate Finance Committee, we are working on coverage for catastrophic illness, will probably report a bill on that, which would certainly cover the very point the Senator from Washington, the Senator from Indiana, and other Senators, including the Senator from Kansas and the Senator from Louisiana, are concerned about. It is our proposal. It seems to me that might be a more appropriate place to address this issue.

Beyond that, I am wondering and asking myself the question of whether or not it is reasonable to divide the disabled into those with life expectancies of less than 12 months and those with life expectancies of more than 12 months.

It seems to me we will not be doing equity in this case. I certainly understand the emotional involvement, not only in the amendment, but in the outcome of the amendment.

The Senator from Kansas does not have any solution, but we are in the process now of marking up a bill dealing with catastrophic illness, and if there is anything more catastrophic than cancer, this Senator is not aware of it.

It would seem to me we might be given the opportunity, those of us who support the concept presented by the distinguished Senator from Indiana and the distinguished Senators from Washington (Mr. MAGNUSON and Mr. JACKSON), to address this problem in that legislation.

I cannot speak for the Senator from Louisiana, the chairman, but I suggest that might be a possibility as we prepare to report that bill sometime this year—I would hope early this year.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I would like to again point out that the Senator from Indiana has been knocking around legislative halls quite a long while. I understand that although in this body all of us are equal, there are some who are a little more equal than others.

This applies in particular situations in certain committees involving certain legislation.

I know that the Senator from Lousiana and the Senator from Kansas have tremendous influence as regards legislation in the area in which we are now dealing. I only point this out, not at the risk of self-serving flattery, but the real facts of life.

Given those real facts of life, the Senator from Indiana would normally not resort to this kind of strategy because it does convey a certain degree of lack of respect for those who have significant responsibilities—I hope the Senators know I do not have a lack of respect for them.

But I point out that this particular measure was introduced some time ago in the last session, reintroduced in this session, and it is in the committee.

The same reasons that the chairman has, which I am sure he feels very strongly about, I do not know anybody more humane than Senator LONG, but those same feelings with which I respectfully disagree, which now cause him to oppose this amendment, also cause him to oppose the bill presently in his committee.

I think that is remarkable consistency.

So it seems to me the only way we have of addressing this question is on the floor as an amendment.

Although the 12-month period has been used so far as terminal illness is concerned, and it was used because of the general description within the medical community, I reemphasize that of those who are declared terminally ill—in other words, who would not be expected to live more than 12 months—do not usually live 5 months. That is the issue.

When you have a significant category of citizens who have paid into the social security system and who are confronted with dire emergencies prior to death, the issue is whether they should be given the opportunity to dig into their own probably depleted resources to cover those expenses.

That is why the Senator from Indiana is compelled to follow this recourse—not because of his refusal to recognize reality and the strength of the chairman and the ranking Republican member.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes and 14 seconds.

Mr. LONG. Mr. President, any Senator in this body can ask the Parliamentarian, before he votes on cloture, or can consult with the manager of the bill, before he agrees to a unanimous-consent request, or he can raise the issue when the matter comes up, as Mr. PERCY did, and say, "Is my amendment germane?" If he is advised that his amendment is not germane or it is likely to be ruled not germane, he can say, "I am not going to agree to a unanimous-consent request unless you agree that I may offer my amendment."

The Senator from Indiana can offer his amendment on any other revenue bill to come before the Senate, and there will be a lot of other revenue bills before the Senate during the remainder of this session.

The Senator did not have an agreement that the amendment would be regarded as germane on this bill. It is not germane. The Chair has done his duty, and the ruling of the Chair should be upheld.

The Senator can offer the amendment on some other bill, and I cheerfully invite him to do that. It is not germane on this bill, and the agreement among Senators should be respected by the Senators who agreed to the unanimous-consent request.

Mr. BAYH. I doubt whether the Senator from Louisiana knows this—he has no reason to know it—but when the staff of the Senator from Indiana consulted with the Parliamentarian, the advice the latter gave was that this measure would be germane. I am sure that, upon re-

flection and study, the Parliamentarian, or grounds that were good to him——

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. LONG. When was the Senator advised of that?

Mr. BAYH. When was that?

Mr. LONG. Yes.

Mr. BAYH. I cannot tell the Senator the exact date.

Mr. LONG. Was that before we entered into the unanimous-consent agreement or after?

Mr. BAYH. I am advised that it was after.

Mr. LONG. If it was after, it would not make any difference, because both sides have a right to explain why they think an amendment is germane or not. When both sides have been heard, the Parliamentarian should advise the Chair, and the Chair should rule.

This unanimous-consent agreement was made on November 20, 1979.

Mr. MAGNUSON. On this bill?

Mr. BAYH. The only reason the Senator from Indiana brings this up is to show that at least at one time in the discussion of this matter, it was a close question and that the Parliamentarian came down on the other side of it.

It is a question of great significance, as to whether we are going to help people who have cancer and other terminal illnesses to provide for themselves and their families in their last hours.

The Senator from Indiana comes down very strongly on the position enunciated first by the Senator from Washington, that a study about terminal illness certainly gives sufficient germaneness. But if we have different opinions on that, certainly a matter of such significant consequences, of life and death, should not be decided by the Senate on a point of order.

Mr. LONG. Mr. President, the Senator can raise this issue on any other bill.

I have a memorandum which was prepared with the help of our staff, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

BAYH AMENDMENT ON TERMINALLY ILL

Under the time limitation agreement, no amendment not specified in the agreement may be considered unless it is germane to the bill. The Bayh amendment introduces new matter not dealt with in the House bill or the Committee amendment. It is therefore not germane and should be considered not in order.

It might be argued that the provision is germane because the bill contains a section dealing with the terminally ill. This argument is invalid for these reasons:

(1) Section 505 of the bill authorizes appropriations from general revenues for the Social Security Administration to participate in a demonstration project to study the impact of the present program on the terminally ill and how best to provide services to help them. The Bayh amendment provides an entitlement to benefits payable from the Social Security Trust Funds to terminally ill persons.

(2) Section 505 of the bill is free standing legislation. The Bayh amendment permanently amends the Social Security Act.

(3) Section 505 of the bill would permit appropriations totalling ten million dollars or less over the next five years. The Bayh amendment would directly result in expenditures totalling more than one billion dollars over the same period.

Neither the House bill nor the Committee amendment substantively modify the provision of present law (section 223(a) of the Social Security Act) which would be changed by the Bayh amendment. Present law provides that disabled individuals may not receive disability benefits during the first five full months of disability unless they were previously entitled to disability under the program and the prior disability ended within the previous 5 years. This rule would be unchanged by the bill as reported. (Other aspects of the bill change the rules as to when a disability terminates and the Committee bill does make a conforming amendment to section 223(a) to reflect the new provisions relating to benefit termination. However, that change, unlike the Bayh amendment, does not eliminate the waiting period for a category of individuals who are now subject to it.)

Mr. LONG. Mr. President, the Senator from Indiana is not prejudiced in any way; because, according to his own representation, he did not raise the question prior to the time the unanimous-consent agreement was entered into. Subsequent to that time, when the point came up, the Parliamentarian, of course, should consider the authorities that can be suggested by both sides.

The Senator could offer his amendment on any other bill, and he would within the rules, and he would not be asking Senators to go contrary to the agreement they made in November of last year.

Mr. BAYH. Mr. President, I do not want to quibble on that point——

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Louisiana has 1 minute.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, "Shall the ruling of the Chair stand as the judgment of the Senate?"

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Massachusetts (Mr. KENNEDY) are absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The PRESIDING OFFICER (Mr. BOREN). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 55, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—37

Armstrong	Exon	Nunn
Bellmon	Garn	Percy
Bentsen	Hart	Pressler
Boschwitz	Hatch	Proxmire
Byrd, Harry F., Jr.	Heflin	Ribicoff
Byrd, Robert C.	Hollings	Roth
Chafee	Inouye	Simpson
Chiles	Jepsen	Stafford
Cranston	Johnston	Stevens
Danforth	Laxalt	Talmadge
Dole	Long	Tower
Domenici	Matsunaga	Wallop
	Muskie	

NAYS—55

Baucus	Heinz	Pryor
Bayh	Huddleston	Randolph
Biden	Jackson	Riegle
Boren	Javits	Sarbanes
Bradley	Kassebaum	Sasser
Bumpers	Leahy	Schmitt
Burdick	Levin	Schweiker
Cannon	Lugar	Stennis
Church	Magnuson	Stevenson
Cochran	Mathias	Stewart
Cohen	McClure	Stone
Culver	McGovern	Thurmond
DeConcini	Melcher	Tsongas
Durenberger	Metzenbaum	Warner
Eagleton	Morgan	Weicker
Ford	Moynihan	Williams
Glenn	Nelson	Zorinsky
Hatfield	Packwood	
Hayakawa	Pell	

NOT VOTING—8

Baker	Gravel	Kennedy
Durkin	Helms	Young
Goldwater	Humphrey	

So the ruling of the Chair was not sustained as the judgment of the Senate.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Indiana.

Mr. LONG. Mr. President, I yield time on the bill to the Senator from Maine. How much time does the Senator from Maine require?

Mr. MUSKIE. No more than 5 minutes.

Mr. LONG. I yield the Senator 5 minutes.

Mr. MUSKIE. Mr. President, I am sorry I was not on the floor when this amendment was brought up in the course of the debate. I was tied up in Budget Committee hearings. We are having hearings on the administration's budget proposal.

Mr. ROBERT C. BYRD. Mr. President, may we have order? Senators should hear what the Senator from Maine is about to say.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Maine.

Mr. MUSKIE. This amendment arose as we were bringing those hearings to a close. Since I do have some responsibility for bringing to the attention of the Senate matters that impact seriously on the budget, I think I have an obligation to do so in this case even though it is clear from the vote that has alrady been taken what the will of the majority of the Senate is.

I am not sure whether or not the relevant points, which I think ought to be a part of the record, were raised in the earlier debate.

I know the distinguished floor manager of the bill undoubtedly is expressing his

point of view with his customary thoroughness and eloquence, but I do want to make it clear to the Senate that this amendment has serious budget implications not just for a single year but for the long run. In addition, the implications for further change are inherent in the amendment.

I just cannot believe that the Bayh formulation—and I say this with all respect to my good friend from Indiana—will stand as the ultimate policy because it would generate inequities that some future Senate will be motivated to react to in the way that the Senate has reacted to this case. So, without unduly delaying the Senate, I would like to make my points.

First, as I understand the amendment, it provides that persons medically determined to be terminally ill—that is, expected to live 12 months or less—would not be required to wait 7 months from the onset of their disability before receiving social security benefits.

Because the amendment is effective in 1981, and the 1981 budget resolution has not yet been agreed to—we just began consideration of it today—under section 303 of the Budget Act the legislation is subject to a point of order until the Congress has acted on the first budget resolution. But I do not want to emphasize that. I want to emphasize the policy problem.

With respect to this amendment, outlays would be increased as follows: Fiscal year 1980 by $120 million; fiscal year 1981 by $132 million; fiscal year 1982 by $143 million; fiscal year 1983 by $153 million; fiscal year 1984 by $163 million; and the 5-year impact totals $711 million.

The argument for this amendment is put most succinctly, and I find the amendment as appealing as any Senator in this Chamber. The argument for the amendment is that some totally disabled people never receive social security disability insurance benefits because they die before the 5-month waiting period has expired. That simple statement will prompt every Senator to vote yea and do so as visibly and as clearly and as loudly as he can. Certainly, that is my instinct.

But what is the other side of the story? First, there is no evidence that the terminally ill have a greater need for benefits during the first 5 months of disability than do other disabled beneficiaries.

The amendment, in effect, says that those who are medically determined to be terminally ill and expected to live 12 months or less should not be subject to the 5-month waiting period, but those who are going to die in 2 years will get no benefit during that 5-month waiting period. They will still have to wait.

If you were to buy the logic behind this, then you would eliminate the 5-month waiting period altogether, so as not to create any inequity.

The second point is it would be difficult to administer and would create anomalies because it is frequently difficult to determine medically if a person is terminally ill and can be expected to die within 12 months. One of our colleagues told me—and I will not name him—that his grandmother was declared terminally ill and lived for 14 years after the determination.

The third point is that in some cases people could be found to be terminally ill, as I just described, and yet could live more than 12 months or even recover. It would be unfair to other disabled beneficiaries that such people would get 5 additional months of benefits.

The fourth point is that in still other cases, people not found to be terminally ill could die within 12 months of becoming disabled. Their survivors could claim that they were treated unfairly because they did not get 5 additional months of benefits.

The fifth point is that physicians would be placed in the difficult position of determining whether to state a person is terminally ill so that he can receive 5 months' extra benefits or to withhold the information on the grounds that it would be harmful to the patient and his family.

With cancer victims, for example, doctors often make the judgment that a given cancer patient—because of his mental condition or emotional state—ought not to be advised that he is terminally ill or that the doctor should not predict a date of death within 12 months. What do you do in that case?

The next point, Mr. President, is the problems and anomalies caused by the amendment could lead to pressures to shorten or eliminate the waiting period altogether which would substantially increase the cost of the disability program.

With respect to the budget itself, given action to date in the Senate—including the reported version of the pending legislation—the Finance Committee is over its fiscal year 1980 outlay crosswalk by $1 billion, over its fiscal year 1981 outlay crosswalk by $1.3 billion, and over its fiscal year 1982 outlay crosswalk by $1.2 billion. These significant overages reduce the spending available to other committees in each year under the ceilings in the second budget resolution.

Mr. President, I have stated the perspective of the chairman of the Budget Committee on this amendment as succinctly as I can. I do not take pleasure in it and I did not take pleasure in voting to support the motion to table.

May I ask the Parliamentarian whether he has had an opportunity to study the question of the point of order under the Budget Act?

The PRESIDING OFFICER. It is out of order.

Mr. MUSKIE. It is out of order? So it is subject to the point of order.

The PRESIDING OFFICER. The Chair has the question under advisement at this time.

Mr. MUSKIE. I see. I will withhold that.

Mr. MAGNUSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I am happy to yield to the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, the Senator has not made up the first budget resolution, has he?

Mr. MUSKIE. Of course not.

Mr. MAGNUSON. And if Congress votes something before you make it up, you just have to accommodate what Congress voted, do you not?

Mr. MUSKIE. The Senator is exactly right.

Mr. MAGNUSON. All right. We voted this thing, or we are going to vote it.

Mr. MUSKIE. Mr. President, that is the Senator's prerogative. But it is also my prerogative to tell the Senate——

Mr. MAGNUSON. Wait a minute. If it is an extra cost, I ask the question, then, does it have to be accommodated by the budget?

Mr. MUSKIE. Of course. But what the Senator seems to be implying is that if I think the proposal is out of order, I should not raise the question because it is the Senate's will to do what it wants to. Of course, it is the Senate's will. But, the whole thesis of the Budget Act is that the Senate ought to have all of the information that is possible to bring to bear on the issue before it votes, so that it can make an intelligent vote. I understand that the Senator can disagree with what I said.

Mr. MAGNUSON. Mr. President, I will say to the Senator from Maine that this is an amendment that has been around for months.

Mr. MUSKIE. I do not challenge that.

Mr. BAYH. Years.

Mr. MAGNUSON. Years.

Mr. MUSKIE. There may be a reason why it has been around for years and not adopted. There may be a good reason, and I may have touched upon some of those reasons.

The Senator from Washington knows better than to suggest that I have the power to deter the Senate from doing what the Senate wants. The Senate could increase the deficit for fiscal year 1980 to $60 billion, if it wishes. I cannot stop it.

But when I see a proposition like this—one which has problems that the Senate ought to take into account, it is my job to lay it out for the record. I am sorry if that is inconvenient and embarrassing. But that is the fact.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. BAYH. Mr. President, I appreciate the fact that the Senator from Maine has brought to the attention of the Senate these matters.

I will say that most of those have been raised very eloquently by the Senator from Louisiana, which certainly does not preclude the Senator's right as chairman of the Budget Committee to bring them up again.

The PRESIDING OFFICER. Who yields time to the Senator from Indiana?

Mr. BAYH. Mr. President, the question I wanted to raise goes directly to the Senator from Maine and he and the Parliamentarian are now involved in a discussion to determine whether the subject is under a point of order.

The PRESIDING OFFICER. The time is under control. Does anyone yield time?

Mr. DOLE. Mr. President, I yield to the Senator from Indiana 5 minutes off the bill.

Mr. BAYH. Mr. President, I point out to both the Parliamentarian and the Senator from Maine that, at least from the standpoint of the point of order, the Senator from Indiana—both Senators from Washington, and the Senator from Tennessee—thought we would escape any immediate point of order by pointing out that none of these funds are applicable in this fiscal year. It does not take effect until the next fiscal year.

Mr. MUSKIE. Mr. President, section 303 applies to the legislation that would impact upon a fiscal year before the first concurrent budget resolution for the year has been adopted.

In other words, this amendment changes the law applicable for 1981, and the fiscal year budget which we have just begun to consider. The Parliamentarian has not yet determined whether section 303 applies to the amendment. I do not have any parliamentary bias against the amendment of the Senator, but section 303 does impact upon legislation that first increases outlays in 1981. Whether it does so in a way that does violence to section 303 the Parliamentarian is now considering.

Mr. BAYH. Would the Senator feel more comfortable if we made it applicable to this fiscal year? I am not quibbling.

Mr. MUSKIE. May I say I am not comfortable about the whole amendment. I thought I went out of my way to indicate that. Does the Senator think it is easy for me to stand here and make a case against an amendment of this kind? Of course I am not comfortable. Does the Senator think I can be more comfortable because he changes the effective date? No, I cannot be more comfortable. The basic point is that I have to stand here in opposition to an amendment which clearly the majority of the Senate wants to pass, is emotionally inclined to pass. No, I am not comfortable. That change will not make me any more or less comfortable.

I would say to the Senator that, by making that change, it might avoid a point of order. I would not object to his doing that.

Mr. BAYH. The Senator from Indiana is not unaware of the difficulty of dealing with the cost of this. That is why in the early debate on this, the Senator from Indiana and others tried to point out the unique characteristics of the kinds of citizens we are dealing with here. To suggest that someone who has been declared by two doctors as terminally ill present the same question as someone who has lost a leg, I think is to ignore the reality of the situation.

The reason we are confining it to those who are terminally ill, and the reason I think we have a compelling case for this, is that if a person loses a leg and is disabled, upon living beyond 5 months he can then start drawing out of his social security disability fund.

The tragic but real fact of life is if someone has been declared terminally ill as a cancer patient and he is the average patient, he does not live beyond 5 months. In fact, he probably does not live beyond 2½ to 3 months.

What we are suggesting is that this fact presents a compelling reason to let someone draw from that security fund into which he has contributed without a 5-month waiting period.

I must say that the statement made by the Senator from Maine, in which he suggests that it does not make any difference whether one is dying from cancer or is disabled in some other way, seems to me to show a lack of familiarity with the problems suffered by those who have cancer.

Mr. MUSKIE. I do not think I made any such suggestion.

Mr. BAYH. If this Senator may continue with his comments, I think the Senator from Maine did say there was no reason to treat the terminally ill any differently than other disabled and thus he was concerned—I understand his concern—that this would be setting a precedent for other kinds of disability.

Mr. MUSKIE. I did not suggest that.

I have friends with cancer, some of whom have been ill for less than 5 months, some whom have been ill for more than 5 months, some for more than 12 months, and I find it difficult to understand why, when one of these friends dies 13 months after becoming ill, he or she should not get this exemption, but one who dies within 6 months does.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAYH. This Senator yields himself 2 minutes.

The PRESIDING OFFICER. There is no time remaining.

Mr. DOLE. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. Twenty-four minutes remain on the bill.

Mr. DOLE. I yield 2 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I hope we are having this debate without suggesting that any of our colleagues who may be concerned about the costs are not compassionate and concerned about people who have cancer. That is not what the Senator from Indiana is suggesting. What he is suggesting is that the fact is that those who are covered must be declared terminally ill by two doctors.

There is a definition, a certain standard, a certain criterion, that has to be met under social security regulations to show that this is a very serious determination. Having given that determination, the majority of those who are thus classified live less than 5 months. Some of them may live 13 months and thus would be covered and be able to draw. There is no question about that. But the vast majority of them would not.

I suggest to the Members there is a uniqueness about the circumstances surrounding a family where there is someone who is unable to work, who is dying from cancer, that does not exist in the families of others who are disabled because of other reasons.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I guess it is unavoidable——

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I yield 5 minutes to the Senator from Maine.

Mr. MAGNUSON. Will the Senator yield for me to ask for the yeas and nays?

Mr. MUSKIE. Yes.

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

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

The yeas and nays were ordered.

Mr. MUSKIE. I might say I am not concerned primarily with cost, Mr. President——

Mr. BAYH. If the Senator will permit me to interject, as he tried to correct my inferences, I thought I had made it very clear that the Senator is not objecting on the basis of cost.

Mr. MUSKIE. I understood the Senator to say that, but he also said something else. I just want to make it clear in my own words. It is not cost, principally. I understand that budgets are more than costs and deficits. Budgets are people as well. I know that. I fight for them all the time in that Budget Committee. If Senators have any question about that, I invite them to attend the markup sessions.

I cannot fight for unlimited funds for every human cause, and still discharge my responsibilities as chairman of the Budget Committee. If the only way I can be compassionate is to raise all limits on people programs, then we might as well drop the budget process.

Secondly, I am not making a distinction on the basis of a disease. I made the distinction very succinctly; it was in writing and will go into the RECORD exactly as written.

Mr. President, this amendment is subject to a point of order under the Budget Act. I am not going to raise the point of order. There has already been one point of order and the Senate has voted on it. So I think the Senate ought to vote up or down on the amendment. I have made my case. It is subject to a point of order and I hope Senators will bear that in mind. My not raising it today does not mean that I unilaterally repeal section 303 of the Budget Act.

I think there is no reason why Senators should not vote on the merits as they see them and, whatever the Senate votes, the Senate is my boss, as Senator Mansfield used to say.

I say just one word in closing: I am asked constantly why we cannot balance the budget. It is these kinds of things, with a deep emotional appeal, that have as much to do with the growth of Federal spending as anything else in the budget. Just look at the charts in the new budget on where the budget growth has been in the last 10 or 15 years. It has been in this area of payments to individuals, and it is so easy for us to act on them. Then, having written them into law as entitlements, the Appropriations Committee

will say to us, "Well, we cannot control them, because they are entitlements; it has already been written into the law," and they are right.

Mr. MAGNUSON. I agree this is an entitlement.

Mr. MUSKIE. It is an entitlement, of course.

Mr. MAGNUSON. Not subject to appropriations.

Mr. MUSKIE. That is exactly what I am saying. The only place to apply a budgetary judgment on it is now; we cannot do it any other time.

UP AMENDMENT NO. 933

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 933 to amendment numbered 749:.

On page 2, line 7, change the "12" to "6."

Mr. DOLE. Mr. President, I hope the Senator from Kansas is being constructive, as I suggested to the Senator from Indiana earlier, when we tried to satisfy some of the concerns by requiring a second opinion. I think, in line with what the Senator from Indiana stated several times on the floor, that since most of the people affected die within the 5-month waiting period, it would be more in line with the purpose of the Senator from Indiana and the Senator from Washington and others if we change it so it would read to certify that the individual is terminally ill and is expected to die within 6 months instead of 12 months.

The people who will live beyond 5 months will get benefits after that waiting period. It seems to me that with this minor change we can still meet the needs of those who are expected to die during the waiting period while keeping the cost down somewhat.

I share some of the agony expressed by the distinguished chairman of the Committee on the Budget that anyone who suggests any tampering with the amendment might be suspect in the eyes of some. But it seems to this Senator that there is a cost problem.

I hope that if, in fact, this amendment is passed, my modification will help to assure that it survives the conference. I hope the Senator from Indiana might be willing to accept that modification.

Mr. BAYH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Does the Senator from Indiana have time?

The PRESIDING OFFICER. The Senator does not have time. The time is under the control of the Senator from Connecticut and the Senator from Kansas.

Mr. RIBICOFF. May I ask how much time the Senator from Indiana desires?

Mr. BAYH. Five minutes.

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the Senator.

Mr. BAYH. I thank the Senator from Connecticut.

Mr. President, my reluctance to accept the amendment of the Senator from Kansas, which I know is offered in good faith, is based on the fact that the 12-month period was arrived at after consulting with a number of physicians who deal on a daily basis with terminal illness, and terminal illness, as a term of art, is used in the frame of reference of someone who is not expected to live more than 12 months.

I point out that being catgorized as terminally ill and thus being assessed by two doctors has having a longevity of less than 12 months does not automatically qualify someone to start drawing disability payments. One has to have that assessment, plus one also has to meet the other criteria which are established under title XX for disability as not being able to maintain any substantial means of gainful employment.

In other words, those cancer patients who live on for 14 years or not qualified—and everybody who has cancer could not meet the criterion of being terminally ill in that 12-month period. Many of them—in fact, most cancer patients—work right down to the last physical capability of doing that. That is a unique quality, I think, of cancer patients. Those people really want to hang in there, and want to be active as long as possible.

There is a specific description, a legal description, as to what criteria and what definition would be applied under medical terms if one were declared terminally ill after discovery of breast cancer. It includes the turning over of actual medical records and hospital records which indicate that the perimeters of the carcinoma go beyond the area of radical excision of the tumor and surrounding lymph nodes. The records must include biopses, information on the location of the tumor, information on the extent of metastasis and voluminous additional objective medical information.

One would have to conform to that general description as established by the social security rules and guidelines, would have to not be able to maintain any substantial employment—as well as meet the terminal illness definition which is extremely strict. So I do not see the necessites of the amendment of the Senator from Kansas.

What it potentially does is get a number of people who might die just before they got to the 5-month period and still not qualify. It increases the number who would not qualify but who died before they could reach the point. If, indeed, the people who are judged terminally ill are not expected to live more than 6 months we may be creating unsolvable problems for physicians and we are going to have people who are going to be suffering. I do not think the Senator from Kansas wants that.

Mr. DOLE. That is not the intent of my amendment. I wanted to tighten it up, obviously, so we might satisfy some of those budgetary concerns. There is no way of knowing how much it is tightened up, but it seems to me it is a position where, if you live beyond the 6-month period, you are receiving benefits; if you are certified that you cannot live beyond 6 months, there is no waiting period. It seems to me it is a compromise that ought to be acceptable and that many of us would support.

Mr. MAGNUSON. Will the Senator yield in the meantime?

Mr. DOLE. Yes, I yield.

Mr. MAGNUSON. I hope the Senator will withdraw his amendment, because, if and when this amendment passes, we are going to go to conference anyway. It is not in the House bill. I am hoping we can work something out on this amendment by which the Senator can withdraw it, because the matter will be up in conference. Then we can work out whether it is a 5-month period or a year and get more information on the facts involved and it will be somewhere within that period.

Of course, 5 months is a little deceiving, anyway, because you cannot shut it off when somebody is going to die.

Second, it takes, sometimes, 8 or 9 months to get through the paperwork. The regulations and paperwork with HEW and social security are horrendous.

Some of these people actually get the doctors to certify. It takes months sometimes, weeks at least. So the time element, to set a time date, is a little unusual.

Mr. DOLE. I thank my distinguished colleague.

Mr. President, it would seem to me that most physicians could look at someone and after the examination probably determine very easily if that person might survive 3, 4, or 5 months. It might be difficult to make a judgment on 12, 15, or 18 months.

But, in any event, it seems to me there is a consensus being reached.

We understand the problem. We hope we can deal responsibly with the problem so we do not do violence to the social security system, or any part thereof.

Mr. MAGNUSON. The Senator's amendment has 6 months?

Mr. DOLE. Six months.

It seems to me a physician, or two physicians, can determine after examination if someone is very critically ill and will not survive 6 months more easily than that he will not survive 9 months, 12 months, or 15 months.

So it would seem to me the one way to properly address that and make certain we are looking at those extreme cases and reduce it from 12 to 6 months.

Mr. BAYH. Will the Senator yield?

Mr. DOLE. Yes.

Mr. BAYH. I apologize for interrupting.

Mr. President, I know exactly what the Senator is trying to accomplish. I know of his compassion and concern for this problem. We do not want to allow someone, who either intentionally or unintentionally, is taking advantage of this special provision designed to meet a certain unique health problem.

The Senator from Indiana is concerned because in discussing with doctors the description of terminal, the 1-year frame of reference is usually used.

As I pointed out, in the case of cancer, most of those folks do not live 5 months.

But I am concerned that by cutting it back to 6 months, we may be giving those in the profession who are asked to attest or to swear to this particular criteria a burden they do not feel they can meet. They could say that they think someone would live for 1 year, but they would not want to swear to only 6 months.

I know of the Senator's concern. I ask the Senator if he would consider withdrawing this amendment with the understanding we would go together and talk to professionals in the field to see if this would cause a problem. If not, I would support any efforts he and others might make in conference to do what we all want to accomplish.

Mr. DOLE. Mr. President, I commend the Senator from Indiana. He, more than anyone on this floor, understands the problem.

I also want to commend the distinguished senior Senator from Washington (Mr. MAGNUSON), who brought this witness to our committee, along with Senator JACKSON.

The Senator from Kansas will be a conferee. I think this debate has been helpful in the right sense. There are some problems with the amendment, but there is no question about anyone's motives in this Chamber.

Mr. President, I ask that the amendment be withdrawn and that we do work on this between now and the time of the conference.

There is nothing in the House bill on this issue, so it is going to depend on persuasion on the Senate side.

As to those of us who are conferees, it is my hope we can come up with something we can sell the conference and still be responsible in light of the very sound arguments made by the distinguished Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The amendment is withdrawn.

● Mr. CHILES. Mr. President, I would like to explain my concern about the amendment to eliminate the waiting period for disability benefits for terminally ill individuals.

Certainly, none of us here likes to be debating the pros and cons of an issue like this. Human life and death, which each of us faces sooner or later, is not something to put in dollars and cents or cost-benefit analyses. But neither is life and death a precise science, where we can exactly predict how long a person will or will not live. I have heard my colleagues here today present case examples to support or refute arguments about this amendment. We all know of individuals who have been told they have only a few months or few years to live that are alive today and may outlive us all. We also know that terminal illness cannot and should not be equated with total and permanent disability to engage in substantial gainful activity.

The problem in eliminating the waiting period for one group of individuals, depending on a set of variables that are beyond human ability to precisely measure, is that we are unable to know what impact this will have on the stability of the trust funds, or how the administrative difficulties will be solved. If I were a physician treating a patient with an incurable disease, and knowing of the mental anguish that individual was facing with medical costs, I would find it terribly hard not to find that person eligible for disability and qualified for this exemption from the waiting period. When we consider the wide variance in the cost estimates for this amendment, the discrepancies in the error rate to be expected, and the largest "unknown"—how many applicants will be determined eligible for humane reasons whether they are disabled or not, or expected to die within a year or not—I do not feel we can approve this exception to the waiting period without looking at the fairness of the waiting period for all disability applicants.

I would like to express one additional concern. When we talk about the mental anguish seriously ill individuals face, we know that one of the major factors is financial worry about the cost of catastrophic illness. And I wonder with national health insurance proposals before the Congress and the Finance Committee planning to resume active consideration of catastrophic coverage shortly, if this bill is the appropriate vehicle to debate the amendment. I believe that the subject matter of the amendment, regarding the waiting period and the issues of the cost of catastrophic illness, cannot be given adequate consideration on the Senate floor during debate on the pending legislation.●

The PRESIDING OFFICER. The question recurs on the amendment (No. 749), as modified, of the Senator from Indiana. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The PRESIDING OFFICER (Mr. STEWART). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—70

Armstrong	Bumpers	Cohen
Baucus	Burdick	Cranston
Bayh	Byrd, Robert C.	Culver
Biden	Cannon	DeConcini
Boren	Church	Dole
Bradley	Cochran	Durenberger
Eagleton	Magnuson	Schmitt
Ford	Mathias	Schweiker
Garn	Matsunaga	Stafford
Glenn	McClure	Stennis
Hatch	McGovern	Stevens
Hatfield	Melcher	Stevenson
Heflin	Metzenbaum	Stewart
Heinz	Morgan	Stone
Hollings	Moynihan	Talmadge
Huddleston	Nelson	Thurmond
Jackson	Packwood	Tsongas
Javits	Pell	Wallop
Jepsen	Pryor	Warner
Kassebaum	Randolph	Weicker
Laxalt	Ribicoff	Williams
Leahy	Riegle	Zorinsky
Levin	Sarbanes	
Lugar	Sasser	

NAYS—23

Bellmon	Domenici	Muskie
Bentsen	Exon	Nunn
Boschwitz	Hart	Percy
Byrd, Harry F., Jr.	Hayakawa	Pressler
Chafee	Humphrey	Proxmire
Chiles	Inouye	Roth
Danforth	Johnston	Simpson
	Long	Tower

NOT VOTING—7

Baker	Gravel	Young
Durkin	Helms	
Goldwater	Kennedy	

So Mr. BAYH's amendment (No. 749), as modified, was agreed to.

AMENDMENT NO. 731, AS MODIFIED

The PRESIDING OFFICER. The question recurs on amendment No. 731, as modified. The yeas and nays have been ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. DECONCINI. Mr. President, will the Senator yield for a statement without losing his right to the floor?

The PRESIDING OFFICER. There is no time for debate.

Mr. DECONCINI. Mr. President, I ask unanimous consent that I may have 30 seconds for a statement.

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

Mr. DECONCINI. Mr. President, I appreciate the remarks of the distinguished Senator from Illinois (Mr. PERCY), and for his effort to work with the staff of the Judiciary Committee in clarifying certain aspects of the pending amendment.

At the request of the chairman of the Judiciary Committee, Senator KENNEDY, I wish to submit for the RECORD a statement he would have made today regarding the pending amendment—and to add my voice in support of his concerns.

As a member of the Juiciary Committee—and as a member of the Select Commission on Immigration and Refugee Policy, charged with reviewing all aspects of our immigration laws—I simply want to stress that I believe the measure before us today is only an interim step, pending the findings of the Select Commission and the work of the Judiciary

Committee, in whose jurisdiction this question falls.

As the Senate knows, the Select Commission is now at work, attempting to overhaul our Nation's immigration laws and policies—including the requirements sponsors and immigrants alike must meet when petitioning to enter the United States. It is a complex issue, and one which has not been sufficiently studied either by the administration or the Congress.

So pending this larger review, I think we should state clearly that we are attempting today to simply clarify certain aspects of the sponsorship requirements under the Immigration Act. And we are doing so without prejudice to either the jurisdiction of the Judiciary Committee, or to the work of the Select Commission on Immigration and Refugee Policy.

Mr. President, I ask unanimous consent that Senator KENNEDY's statement be printed in the RECORD.

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

STATEMENT OF SENATOR KENNEDY

Despite many deep concerns I have over the pending amendment offered by Senator Percy and Senator Cranston relative to affidavits of support required of sponsors of immigrant petitions under provisions of the Immigration and Nationality Act—and despite jurisdictional questions—I will not oppose it today.

Although members of the Judiciary Committee staff have been consulted by the sponsors of the amendment—and I appreciate the effort to reach a consensus on what, if anything, should be done regarding this question—I am nonetheless concerned over precipitous action without the benefit of hearings by the Judiciary Committee or any real Congressional study of this issue.

This has been my concern for some time, since Senator Percy first proposed a version of this amendment late last year—which I strongly opposed. There has been a tendency to sound the alarm over alleged abuses of affidavits of support by sponsors, without any real data supporting such alarm—except for one very narrow, and questionable, study undertaken in San Francisco by the General Accounting Office.

Furthermore, there have not been open hearings by Congressional committees, nor an adequate review of this issue by the Administration.

As a result, I have been concerned that we are rushing to judgment on a complex issue without sufficient facts, and without soliciting views from the public in formal hearings. There is the danger we are using a sledgehammer to swat at an uncertain abuse of the immigration law.

As Chairman of the Judiciary Committee I share the view that there is a long overdue need for immigration reform—including reform of the procedures we follow in admitting, and processing, legal immigrants to our country. To move towards this overall reform, last year I expedited consideration in the Senate of a bill to create a Select Commission on Immigration and Refugee Policy—to review all aspects of our immigration law and practice—including the question of affidavits of support.

This Commission is now functioning, and in some of its hearings and deliberations thus far, it has already focused on the question of what requirements immigrants and their American citizen sponsors should meet prior to entry.

So my concern today is that we not prejudge the Commission's work, nor preclude efforts later to make substantial modifications in the provisions of the amendment now pending before the Senate.

More importantly, I think it is crucial that we monitor closely how the provisions of this amendment are, in fact, implemented—to determine whether they are administered fairly, or contrary to the spirit of our immigration law and the principle of family reunion. We all know from past experience that administrative interpretations of complex regulations—such as those established in this amendment—can easily be distorted through administrative regulation.

With this understanding—that this amendment is seen as an interim measure, to be reviewed in light of the findings and recommendations of the Select Commission, and that the sole jurisdiction of the Judiciary Committee is acknowledged—I will not oppose this amendment today.

I ask that a letter from the voluntary agencies on this amendment be printed in the RECORD.

The letter follows:

AMERICAN COUNCIL FOR NATIONALITIES SERVICE
Washington, D.C., December 14, 1979.

Hon. EDWARD M. KENNEDY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: This letter is in regard to section 504(a) of H.R. 3236 and amendment number 731. The former provision would impose a three-year residency requirement before aliens legally admitted for permanent residence, with the exception of refugees, could qualify for SSI. The latter provision would make the sponsor's affidavit of support enforceable [illegible] means of a civil suit which could be brought by the alien, the Attorney General, or a state which furnished assistance to the alien. The undersigned groups are opposed to these provisions because they make dramatic changes in our immigration laws without ever having been considered by the congressional committees specifically responsible for these laws. Our opposition is specially strenuous because H.R. 4904, the welfare reform bill, contains provisions which adequately address congressional concern over alleged alien abuse of SSI and yet are fairer, more flexible, and do not radically change the Immigration and Nationality Act.

If enacted, the Senate proposals would create unfair hardships for many thousands of lawfully admitted permanent resident aliens and to their U.S. citizen relatives who have contributed significantly to our society. As a result, they raise serious questions of law and policy, such as the financial and administrative burdens of enforcement, the effect on family reunification—a cornerstone of our immigration policy, and possible violation of the Final Act of the Helsinki Conference. Similar proposals have been made in the past, yet none has ever been studied by the House Immigration subcommittee or by the Senate Judiciary Committee.

Not only have these proposals not been reviewed by the most knowledgeable congressional committees, but they are based primarily on one GAO report. On October 11, 1978 critique of this report revealed serious flaws in the study. It was distributed to every Senator by the Washington Lawyers' Committee for Civil Rights Under Law and the Mexican American Legal Defense and Educational Fund.

In view of the insufficient and inadequate data on which these proposals are based, the availability of fairer and more flexible provisions, and the thorough review of all our immigration laws currently being conducted by the Select Committee for Immigration and Refugee Policy, we urge you not to support section 504 (a) of H.R. 3236 or amendment number 731.

Sincerely,

Aliens Right Law Project/Washington Lawyers' Committee for Civil Rights Under Law; American Council for Nationalities Service; American Immigration and Citizenship Conference; Association of Immigration and Nationality Lawyers; Migrant Legal Action Program; Mexican American Legal Defense and Educational Fund; National Council of La Raza; and United States Catholic Conference/Migration and Refugee Services.

● Mr. ROTH. Mr. President, I am pleased to cosponsor the amendment offered by the distinguished Senator from Illinois. As my colleague from Illinois has explained, the amendment was originally contained in S. 1070 which I also cosponsored. S. 1070 was essentially a two-pronged attempt to curb alien abuse of the supplemental security income program. The major provisions of the bill would have established a 3-year residency requirement in order to be eligible for SSI benefits and would have made the affidavit of support signed by the alien's sponsor legally enforceable.

The need for this legislation was pointed out in a GAO report issued in February, 1978 entitled "Number of Newly Arrived Aliens Who Receive Supplemental Security Income Needs To Be Reduced." This report stated that in the five States with the largest alien population, approximately $72 million in SSI payments was received by 37,500 newly arrived aliens. Sixty-three percent of the aliens receiving SSI enrolled during the first year in the United States and 96 percent of the recipients enrolled during the first 3 years of residency.

During the Finance Committee's consideration of H.R. 3236, I offered as an amendment that part of S. 1070 which establishes a 3-year residency requirement in order to become eligible for SSI benefits. The amendment, which was accepted unanimously by the committee is the first step toward eliminating alien abuse of our Nation's welfare programs.

The amendment being offered today by the distinguished Senator from Illinois goes one step closer to reaching that goal. Specifically, it provides for making the affidavit of support legally enforceable. Presently, an alien entering the United States must prove that he or she will not become a public charge. In order to accomplish this, an alien often is sponsored by a relative or close friend. Prior to entry into the country, the sponsor signs an affidavit of support which states he will accept financial responsibility for the alien. The large percentages of aliens receiving SSI in the first 3 years of entry, as stated in the GAO report, indicates many sponsors are not living up to this obligation.

In fact, the court has ruled the affidavit of support is not now legally enforceable. Rather, it is only a moral obligation on the part of the sponsor. The end result is the pledge of support is really nothing more than a "paper tiger." By adopting this amendment, we would reinforce our immigration and naturalization laws which state that an

alien may not enter this country if he will be a public charge. We will insure tax dollars will not be spent on benefits which violate the intent of that law.

This amendment is not intended as a punitive measure toward the sponsor who attempts to meet the requirements in good faith. It provides that if the financial situation of the sponsor changes for reasons beyond his control, he will be relieved of the pledge of support and the alien would then be eligible to receive SSI even if he has not met the 3-year residency requirement.

I believe this amendment is consistent with our efforts to reduce Federal spending and I urge my colleagues to adopt this amendment to make the affidavit of support legally enforceable.●

● Mr. HAYAKAWA. Mr. President, as you know, I am a cosponsor of the amendment concerning legal alien abuse of the social security system which was offered by the distinguished Senator from Illinois.

I am very, very troubled that we here in Congress are willing to recognize a serious problem but are unwilling to act to rectify it. For far too long now aliens have been encouraged to come to this country to live off the good will and free hand of the American taxpayer. How can we continue to justify this spending? I am sure each of you have received letters from constituents in your home State asking this same question.

While studying this issue over the past year and a half, I found that although laws appear to preclude aliens from receiving public assistance in their first 5 years of residency, a loophole actually exists which permits an alien to apply for and receive any number of benefits without breaking the law. Those loopholes have been pointed out by the courts, by Guy Wright, a noted columnist who has pursued this problem from his column in the San Francisco Chronicle, and the General Accounting Office. Both Senator PERCY and I introduced legislation in the 95th Congress aimed at closing this loophole, however neither bill was considered before the end of the Congress.

Again, early in the 96th Congress, we each introduced legislation addressing this problem. The Finance Committee included a provision in H.R. 3236, the bill we are now debating, to establish a 3-year residency requirement before an alien may be able to apply for Federal assistance. This requirement was part of the legislation proposed by both Senator PERCY and myself. It is indeed, a beginning, but certainly not a solution to this bureaucratic "Catch 22." The situation remains where an alien comes to this country under the auspices of a sponsor. If it becomes necessary for the alien to seek financial assistance but for one reason or another the sponsor fails to provide the assistance guaranteed by signing the "affidavit of support," the alien then applies for benefits despite a residency requirement in the Immigration and Nationality Act. However, because there is no residency requirement in the Social Security Act the requirement stipulated by the Immigration and Nationality Act is nullified.

As I mentioned before, the Finance Committee has taken the initiative and moved to close part of the loophole by putting a requirement into the Social Security Act that specifies that an alien must be a resident of this country for at least 3 years before applying for Federal financial assistance. There is no recourse available to the U.S. Government when a sponsor fails to live up to his commitment however. The affidavit of support signed by both an alien and his sponsor pledging financial support for the alien is not legally enforceable in a court of law.

Senator PERCY's amendment to legalize the affidavit of support is an action to correct the inconsistency in the existing law. Senator BAYH pointed out during previous discussion of this matter that simply changing the affidavit of support will not totally close the loophole which is necessary to stop the abuse of our public assistance programs.

The Immigration and Nationality Act states that an alien likely to require public assistance will be denied admission to the United States, unless a sponsor in the United States signs an affidavit agreeing to sponsor that alien for 5 years. My wife and I have had the opportunity to provide that security to aliens, both relatives and acquaintances, wishing to enter this country on several occasions. Each time Marge and I discussed the responsibility associated with signing that document. We made plans in the event that, for some unforeseen reason, the person could not provide for himself. We always considered the signing of that affidavit to be a very serious act of citizenship.

It was not until I began to read in Guy Wright's columns about the terrible abuses of this responsibility of sponsoring an immigrant that I learned of the void in our laws. My research has not only confirmed the void, but lead me to what I believe is the key to locking that loophole. The law now states that if an alien becomes a "public charge" within 5 years of entry, he or she is subject to deportation. The law does not, however, define what constitutes a public charge. Mr. President, the absence of this definition has allowed thousands of aliens to collect benefits totaling millions of dollars each year, after residing in this country for as little as 30 days.

If it is the intent of Congress to stop this abuse of public funds, it is imperative that a definition of "public charge" be included in the law. I am aware that the ultimate effect of such a definition would subject aliens to deportation if they had to go on public assistance. It should go without saying that it is not my intention, or do I feel it is the intention of any Member of Congress, to call for the deportation of any alien who finds after arriving in the United States he cannot support himself. Rather, the intent is that careful consideration be given to requests for the admittance of aliens under affidavits of support.

I do not believe that this is more or less harsh than the original intent of our social security and immigration laws. Consequently, hearings should be held on the issue of what is a public charge. Under the current law, there is absolutely no recourse to the flagrant disregard of the intent of the law.

I also urge my colleagues to vote for amendment No. 731 to strengthen the social security and immigration and nationality laws by making the affidavit of support legally binding. A person seeking to enter this country should consider what are his responsibilities—not only how much he can get.●

Mr. CRANSTON. Mr. President, the amendment I have cosponsored with Senator PERCY will complete action taken by the Finance Committee to close a loophole in the supplemental security income program which costs Federal taxpayers some $70 million annually in SSI-related payments to newly arrived immigrants.

The Immigration and Nationality Act requires as a condition of entry for certain categories of aliens that they have a sponsor, often a close relative or friend, who is a citizen or permanent resident of the United States. This sponsor promises, as a condition of granting an entry visa to the immigrant, that the new immigrant will not become a public charge.

Under the Immigration and Nationality Act, an immigrant who becomes a public charge within 5 years of entry is subject to deportation.

The Social Security Act, however, permits a new immigrant to apply for and receive supplemental security income ((SSI) benefits 30 days after arrive on American shores.

To round out the loophole, the courts—partly in response to the harsh deportation penalty provided in the immigration statute—have ruled that receipt of SSI benefits does not constitute becoming a a public charge and, furthermore, that the sponsor's promise of support is nothing but a "moral obligation."

As a result, the sponsor by disavowing his support agreement can shift responsibility for financial support of the immigrant to the taxpayers. In effect, the immigrant gets an "instant pension."

This situation is an affront to taxpayers. Nor is the situation fair to conscientious sponsors who live up to the letter and spirit of their promises of support. And, it is certainly unfair to all immigrants who have worked hard to support themselves and their families as substantial contributing members of communities in every State.

In fact, columnist Guy Wright of the San Francisco Examiner writes that—

> Some of my bitterest mail on this subject has been from readers who came to this country as immigrants and resent being ripped off.

The amendment Senator PERCY and I are offering to the committee bill assures that those immigrants sponsored by individuals who are financially able will in fact be supported by their well-to-do sponsors.

The amendment also assures—and has been modified to spell out that assurance—that no one who is truly needy and has been abandoned by his or her sponsor will go without assistance. Instead, the Government will pursue the defaulting sponsor while the immigrant receives necessary assistance.

The bottom line is the needy immigrant will receive SSI assistance regardless. But the financially able sponsor will not be able to hand off his obligation to his neighbors. And all sponsors of new immigrants in the future will understand clearly the import of the promise of support.

I urge Senate approval of this sensible and humane approach to a volatile problem.

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. What is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Illinois.

The question is on agreeing to the amendment of the Senator from Illinois, as modified.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MATSUNAGA. Mr. President, I rise in support of the Percy amendment, which would make a sponsor's affidavit of support in behalf of an immigrant an enforceable agreement. Under existing law a sponsor's affidavit is meaningless if the affidant refuses to support a destitute immigrant for any reason whatsoever. To give meaning to the affidavit an immigrants sponsor should be required to keep those promises upon the strength of which the immigrant was admitted to the United States. It is wrong for a U.S. citizen to promise to support an immigrant and then renege, leaving the immigrant homeless and penniless in a strange land. The Percy amendment would provide the legal enforcement of support affidavits. But the amendment also provides that the affidavit of support will be excused and be rendered unenforceable in the event that the sponsor dies or cannot provide support because of circumstances which were unforeseeable when the immigrant was admitted.

The amendment is intended to prevent the perpetration of fraud upon the American taxpayer by forcing him to support a newly arrived immigrant by way of public welfare assistance while the sponsor is capable of providing the promised support. The amendment would not cause any undue hardship on either the immigrant or the sponsor.

There is no better way to provide for the poor and needy, citizens and aliens alike, than to make sure that persons who do not require assistance do not receive it. This approach is consistent with the efforts of Congress and the administration to reduce fraud and abuse and to make sure that only those who are most in need of public assistance receive such benefits.

As a matter of sound policy, not the innocent taxpayer but those sponsors who promised to support an immigrant and who are capable of doing so should be required to provide that support. The Percy amendment would bring about this result for a 3-year period after the immigrant's admission, while protecting any alien whose sponsor encounters unforeseen circumstances.

I urge adoption of the Percy amendment.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—92

Armstrong	Hart	Nunn
Baucus	Hatch	Packwood
Bayh	Hatfield	Pell
Bellmon	Hayakawa	Percy
Bentsen	Heflin	Pressler
Biden	Heinz	Proxmire
Boren	Hollings	Pryor
Boschwitz	Huddleston	Randolph
Bradley	Humphrey	Ribicoff
Bumpers	Inouye	Riegle
Burdick	Jackson	Roth
Byrd, Harry F., Jr.	Javits	Sarbanes
Byrd, Robert C.	Jepsen	Sasser
Cannon	Johnston	Schmitt
Chafee	Kassebaum	Schweiker
Chiles	Laxalt	Simpson
Church	Leahy	Stafford
Cochran	Levin	Stennis
Cranston	Long	Stevens
Culver	Lugar	Stevenson
Danforth	Magnuson	Stewart
DeConcini	Mathias	Stone
Dole	Matsunaga	Talmadge
Domenici	McClure	Thurmond
Durenberger	McGovern	Tower
Eagleton	Melcher	Tsongas
Exon	Metzenbaum	Wallop
Ford	Morgan	Warner
Garn	Moynihan	Weicker
Glenn	Muskie	Williams
	Nelson	Zorinsky

NOT VOTING—8

Baker	Goldwater	Kennedy
Cohen	Gravel	Young
Durkin	Helms	

So Mr. PERCY's amendment (No. 731, as modified) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment numbered 745 by the Senator from Wisconsin (Mr. NELSON).

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The time is controlled by the Senator from Wisconsin (Mr. NELSON) and the Senator from Louisiana (Mr. LONG).

Mr. SCHMITT. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment offered by the Senator from Wisconsin (Mr. NELSON), amendment No. 745.

Mr. DOLE. Mr. President, I ask unanimous consent that that amendment be temporarily laid aside.

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

The Chair recognizes the Senator from New Mexico.

UP AMENDMENT NO. 934

(Purpose: To strike out section 403 of the bill relating to use of Internal Revenue Service to collect child support for non-AFDC families)

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

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT), for himself, Mr. DOMENICI, Mr. LAXALT, and Mr. WEICKER, proposes an unprinted amendment numbered 934.

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

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

The amendment is as follows:

On page 73, strike out lines 15 through 22.

Redesignate sections 404 through 409 as sections 403 through 408 respectively.

On page 32, amend the table of contents by striking out "Sec. 403. Use of Internal Revenue Service to collect child support for non-AFDC families." and redesignate sections 404 through 409 as sections 403 through 408 respectively.

Mr. SCHMITT. Mr. President, I have been informed that the Senator from Ohio (Mr. METZENBAUM) has an urgent need for recognition. I ask unanimous consent that my amendment be set aside, and that I be recognized at the conclusion of the activity of the Senator from Ohio to bring the amendment up again.

Mr. METZENBAUM. I appreciate the consideration of the Senator from New Mexico, but I certainly do not wish to impose upon his efforts. I am prepared to go forward, but the Senator was recognized before me. I respect him and I am perfectly willing to await my turn. I am willing to go forward. However the Senator from New Mexico wishes to proceed, I certainly will agree to. I do not mean to suggest that I have an urgent personal problem, as we sometimes do. I am not in that situation. I certainly appreciate the offer of the Senator from New Mexico.

Mr. SCHMITT. I thank the Senator. I do not believe this amendment will take a great deal of time.

Mr. METZENBAUM. I appreciate the Senator's offer.

Mr. SCHMITT. I do think it will pass overwhelmingly. Therefore, if I could proceed, I will try to limit the time that I use.

Mr. METZENBAUM. I thank the Senator.

Mr. SCHMITT. Mr. President, this amendment, introduced on behalf of myself, Senator DOMENICI, Senator LAXALT, and Senator WEICKER, would, very simply, delete section 403 of the bill, entitled "Use of Internal Revenue Service To Col-

lect Child Support of Non-AFDC Families."

Under present law, enacted in 1975, States are authorized to use the Federal income tax mechanism for collecting child support payments for families receiving aid to families with dependent children, AFDC payments. This provision of the bill would expand that authority to include non-AFDC child support enforcement cases brought within the jurisdictions of the States.

Let me first state that I support the efforts of State and Federal agencies in collecting delinquent child support payments and other delinquent, truly delinquent payments owed to the Federal Government.

In the instant case, the problem of runaway spouses is a serious one which requires much more attention by the affected agencies and States. I think that the committee and I agree that the seriousness of the problem is real and that there is a need to do something about it. We do not, however, based on the bill before us, agree on how to handle the problem.

It seems that every time an agency or department these days encounters any problems with collections of debts, the solution proposed is to let the Internal Revenue Service collect the debts for them, in spite of the institution by Congress of the Office of Inspector General and other potential remedies.

This past September, I am sure my colleagues remember, we debated about a proposal in an appropriations bill to have the IRS collect delinquent veteran and/or student loan accounts. The Senate, in its wisdom, struck that proposal from the Treasury, Postal Service appropriations bill by a vote of 52 to 38.

This year, the proposal before us is to expand an already dangerous precedent, of which at that time I was unaware, that deals with the collection of AFDC debts. In particular, child support payments.

The Comptroller General, an advocate of the use of IRS for collection of delinquent debts, has stated that Federal departments and agencies "have not been aggressive in pursuing collection (of debts)." and recommended steps which could be implemented in the agencies to increase collection deficiencies.

These recommendations have, for the most part, not been implemented and Congress has not asked various agencies why they have not been implemented. We are, however, quick to propose the IRS to collect debts.

In 1978, Congress enacted Public Law 95-452 which created the Office of Inspector General in various departments and agencies whose function is, "to promote the efficiency and economy of and to prevent and detect fraud and abuse in the programs administered by each agency." It appears that it is within both the jurisdiction and responsibility of Inspectors General to follow up on the recommendations of the GAO with respect to debt collection and to make certain that debts owed to that particular department or agency are being effectively collected.

It is my impression, at least at this early date in the use of Inspectors General, that little or no effort has been undertaken by the Congress to adequately direct the Inspectors Generals to tighten debt collection procedures in their respective agencies.

We have heard so much around here about the money owed to the Federal Government and the failure of agencies to collect some of the debts to the Government. The figures are disturbing, but we should be very careful in looking at what the agencies are actually doing about trying to collect delinquent debts, before we look to a panacea, and particularly the siren song of IRS. It makes a great deal more sense to use existing mechanisms which are available to us and to the agencies than to, at this time, bring the IRS more massively into debt collection rather than tax collection.

Mr. President, the Congress also has the option to allow agencies to turn to commercial debt collection agencies. On the Senate Calendar right now is a bill, S. 1518, which would allow the Veterans' Administration to utilize a consumer reporting agency for certain debt collection purposes. It is my understanding that some agencies already have this authority and that it has worked out very well.

The issue before us is of a somewhat different nature. First of all, we are not dealing with any money owed to the Federal Government. We are talking about money owed to an individual by another individual, established under court action. Because child support payments are ordered by the court and in their absence the taxpayers will be forced to supply assistance, the Government is indirectly involved. It seems that there is an appropriate concern for the Government but not in the manner which we are proposing here in this bill.

Second, it has been argued that this provision in the bill is simply an extension of existing law which permits the IRS to add the debt as a tax liability. It is further argued that there is really no distinction between AFDC and non-AFDC recipients. That, however, is not the point. The opinion of this Senator is that we made a serious mistake in 1975 and we should not continue that mistake by expanding this program. What the Congress should do is consider the repeal of the 1975 provision. However, let us at least prevent its expansion under this amendment.

Mr. President, the Internal Revenue Service was created as a tax-collecting agency and not a debt-collecting agency. To expand this role is fraught with danger, as the debate last year indicated when dealing with IRS debt collection of delinquent student loans.

To begin with, it may become a very expensive experiment. The IRS collects about 90 percent of Federal revenues. Taxpayers voluntarily determine that they owe more than 97 percent of this total and pay it, largely through withholding, without any direct IRS enforcement action. The withholding system makes it possible for the IRS to collect tax revenue at the inexpensive cost of about 50 cents per $100 collected.

In a letter to me in September, Commissioner Jerome Kurtz of the IRS stated:

> If taxpayers react to the idea of IRS becoming the Nation's small debt collector by adjusting their tax withholding as much as 1 percent, the initial loss of Federal taxes voluntarily paid would be $4 or $5 billion. We are seriously concerned about the risks to which a National non-tax debt collection program would expose the withholding system.

Mr. President, I think we would ignore Commissioner Kurtz' remarks at our peril.

The proponents of this provision in the bill will argue that this loss of tax revenue has not occurred since enactment of the program. The fact is, one, it is too soon to see the effects, and two, according to the committee report: "This provision for using the IRS in child support collections has been used very sparingly by the States."

In fact, Mr. President, according to my research, the IRS acted on only 17 cases in 6 States, for a total collection of $15,000.

The provision in the committee bill would bring all persons subject to child support payments under the reach of this IRS authority whether they were, in fact, economically destitute or not.

When the provision as in the bill becomes more visible through increased use, I think we shall start seeing the effects of tax collection on increased withholding by the American people.

The major concern of this Senator is the threat to the rights privacy of individuals. Again, even the IRS has concerns about the privacy of individuals. In that same letter, Commissioner Kurtz wrote that serious questions are raised by the use of tax information and the tax administration system for nontax purposes. Any controversy between the taxpayer and the agency would put the IRS "in an awkward position. To maintain taxpayer privacy and to prevent unauthorized disclosure of tax information, IRS would be burdened with dealing with the taxpayer in attempting to resolve the controversy between the taxpayer and the agency owed the debt—without the authority to resolve the matter."

Commissioner Kurtz went on to write:

> Additionally, we question whether the inter-agency use of personal financial data on citizens would adequately recognize concerns about citizen privacy in the use of data processing technology.

The Tax Reform Act of 1976 specifically dealt with eliminating the abuses of the IRS and their authority, especially under political pressure. Now we are turning the clock back and telling the IRS to divulge information to various agencies that need it for debt collection. This is the bottom line. Not only is this opening the door to abuse but it will surely undermine the confidence of our citizens in the confidentiality of any information provided to the IRS.

Mr. President, we have all heard horror stories of IRS agents abusing their

authority. Unfortunately, many are true. Hardly a year passes without some congressional act limiting some activity of the IRS which is in direct opposition to congressional intent. Last year it was the taxing of private schools. At other times, it took report language to remind the IRS that taxpayers have certain rights and are entitled to due process.

Here we are, proposing now to extend the authority and the power of the IRS in an area in which they just do not belong. It does not make any sense to this Senator and I hope it does not make any sense to the Senate.

Mr. President, I reserve the remainder of my time.

Mr. TALMADGE. Mr. President, I yield myself such time as I may take.

Mr. President, this amendment was unanimously approved by the Committee on Finance. The Finance Committee has been concerned for many, many years about the fact that many people who father children abandon them, leave them, flee. The children become recipients of welfare and the taxpayers have to support them. The Finance Committee tried to correct this problem and they did take action to correct it.

We provided that when an individual abandoned his family, abandoned his children, fled the State, concealed himself—hid—the State could file a procedure and ask the Internal Revenue Service to help locate him and help collect the money owed for support. That program, Mr. President, is working exceedingly well. Welfare rolls have been going down and people have been required to support their children.

Many articles have appeared endorsing it. It has saved a great deal of money for the taxpayers of this country. Welfare rolls have declined.

The Finance Committee took another step. We decided that, in addition to trying to prevent people from fleeing and forcing their children to go on welfare, we would try to keep them off welfare. My amendment is the next logical step. It also would permit States—not individuals, States—to come in and ask the Internal Revenue Service to help locate a parent that had abandoned his family and is not supporting his wife, not supporting his children. Then the IRS will come to the aid of the State in collecting delinquent payments that had been ordered by a State court but which the State was unable to collect.

Mr. President, that is all there is to it. It does not have a single thing to do with the secrecy of tax returns; it does not have a single thing to do with using IRS as a collection agency for private debt. Private debt is not involved here. The action of a State is involved here, and if States cannot get the cooperation of the Federal Government in enforcing their decrecs, something is basically wrong with our Federal Establishment.

Ours is supposed to be a nation where States and the Federal Government work together for the benefit of each other. This amendment, Mr. President, is sorely needed, because if we are going to try to keep our families together we need to run down and catch these people who sire these children, father them, abandon them, and neglect them, who hide; and now, when the State comes in and requests the IRS to do something about it, we want the cooperation of the Federal Government—to wit, IRS—in trying to do something about it.

Mr. President, the Department of the Treasury is not opposed to this amendment. I hold in my hand a communication from a highly respected individual, Dr. Larry Woodworth, whom all of us in the Senate knew. Unfortunately, he has passed on. He was Assistant Secretary of the Department of the Treasury and before that chief counsel on the staff of the Joint Committee on Taxation. I read from his letter dated December 7, 1977:

> We have no objection to extending the section 6305 collection authority in non-AFDC cases.

I repeat, Mr. President, this is not a private debt collection matter. This is to aid the States, under due process of State law, to enforce a decree against a man who has fled and abandoned his wife, abandoned his children, and left them as objects of charity or for the taxpayers to pay for when they go on the AFDC rolls.

Mr. LONG. Will the Senator yield?

Mr. TALMADGE. I yield to my distinguished chairman.

Mr. LONG. Mr. President, is it not true that we have managed to prevail upon the IRS to cooperate in a program that is now bringing in about $500 million to reduce welfare by making runaway fathers contribute something to their children right now, and that the IRS was very reluctant to go along with that, and the committee had to persevere through the years to get that program enacted?

Mr. TALMADGE. My distinguished chairman is entirely correct. When this was first proposed, IRS was opposed to it. But since 1975, the States have collected $3.9 billion in AFDC and non-AFDC child support. It has saved billions of dollars to the taxpayers of this country.

Mr. LONG. Is it not true that the provision we are discussing here is not a situation where a private litigant can call upon the IRS? It would be a case where a State government is doing what it can to help some mother look after her child, and that father, for all we know, might be in the 70-percent tax bracket, remarried to someone who might be making as much money as he is making. He refused to pay for his children, then moved somewhere where they have some local influence, perhaps on his side, perhaps on her side, and the State cannot get the local district attorney to do anything about it.

If they abandon a child—say, for example, in Maryland—and the wife does not want to apply for welfare, she wants to do something for her children and does not want to suffer in silence, when the State of Maryland, for example, tries to help that little mother get something for her children, why should not the IRS cooperate?

Mr. TALMADGE. The Senator is correct and I agree with him enthusiastically and wholeheartedly.

Mr. LONG. The Senator well knows that when Uncle Sam is owed some money, IRS has more capability than anybody on Earth to get that money. That is one thing the Federal Government is best at, extracting money from people. When you have these little children whose mother does not want to go on welfare, and does not belong on welfare, the father is well able to support those children, why should not IRS cooperate?

Mr. TALMADGE. Particularly when the State comes in to aid this abandoned mother and her abandoned children and takes up that matter and asks for Federal action, because IRS cannot get involved until the State comes along. The State has to be involved. When the State comes to the aid of that welfare mother, then only, and not until then, can IRS get involved.

Mr. LONG. Mr. President, I think the Senator has made a very fine suggestion. The committee agreed with him unanimously about this matter. There is no doubt in my mind that we shall save the taxpayers billions of dollars once we get this thing on the basis that it is just the thing to do to support your children if you are able to do so. What costs this Government tens of millions of dollars, actually many billions of dollars, is these braggarts going around the barrooms or places where men congregate, bragging how they escape doing their duty to their children and the mother of those children. It makes people think they can get away with it. What the Senator is seeking to do is say that, when the State has done everything it can to help that mother and her children, the Federal Government must cooperate.

Mr. TALMADGE. Exactly.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, I have listened with great interest to the eloquence of the two Senators, one from Louisiana and one from Georgia, in describing the problem. I agree completely with their analysis of the problem. What I do not agree with is their proposed solution. There are other solutions.

I think both Senators would admit that the IRS is not the only solution to every problem faced by this Government in the collection of money. They collect money very well, perhaps too well. I agree with the distinguished Senator from Louisiana: They are an excellent agency in collecting money. In my opinion, we give them too much authority to collect money. The question is, do we, philosophically, want the IRS to move progressively into being a debt collection agency as well as a tax collection agency? It is my philosophical position that we should not. We should find an alternative means to collect these debts.

They should be collected. I agree with all the statements made about the position that mothers find themselves in. But do not put the IRS any farther into this thing than they are already.

Mr. TALMADGE. Will the Senator yield?

Mr. SCHMITT. Yes, I yield.

Mr. TALMADGE. Mr. President, did I understand the Senator to say that he is

in favor of the existing law that IRS would be used when the State is requesting action when the fugitive father has children on the State AFDC rolls?

Mr. SCHMITT. No. I am not in favor of the IRS being a debt collection agency.

I am not trying at this time to amend the basic law, just to try to prevent its expansion.

I agree with the Senator's analysis of the problem, but not the solution.

Mr. TALMADGE. Is the Senator opposed to existing law where the IRS can help the State collect money from a fugitive father when they are on the welfare rolls?

Mr. SCHMITT. Yes. I think there are other solutions. Not to collecting it, but to the IRS becoming a debt collection agency.

Mr. TALMADGE. Opposed to the existing law as well as the amendment?

Mr. SCHMITT. Yes. The Senator has analyzed my position correctly.

Mr. LONG. Will the Senator from Georgia yield?

Mr. TALMADGE. The Senator from New Mexico has the floor and he yielded to me.

Mr. SCHMITT. I am happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, we are collecting right now $500 million a year where the family is on welfare. Does the Senator oppose that?

Mr. SCHMITT. I think I have made myself very clear. My opposition is philosophical to the IRS being a debt collection agency.

I am not asking at this point, I may never ask, that we roll back the law. I am not sure it is possible. But I certainly think it is possible, based on last September's vote in the Senate and, hopefully, on this vote, to prevent an expansion of the IRS into a debt-collection agency.

They have had second thoughts about it. They said last September very specifically they did not want to get into small debt collection with respect to student loans, or anything else.

It is my clear impression that could be extended into this kind of debt collection. It just is not appropriate for us to impose the IRS on the citizenry for any kind of debt collection, and it is not appropriate for us to jeopardize the voluntary nature of our tax structure by a debt collection activity.

As soon as there is a significant amount of IRS debt collection activity, the potential debtors almost certainly will begin to voluntarily withhold more of their taxes, and what would be a very serious consequence in what should be a voluntary tax situation.

Mr. LONG. If the Senator will yield, it seems to me those who are opposed to using the IRS to obtain the information and participate in an effort to make fathers contribute to their children have, over a period of time, pretty well thrown in the towel and agreed that this is a good program, to make fathers contribute something to their children.

We were not getting anywhere until we made the Federal Government participate. At first, the IRS did not want to tell us where the fathers were. We had to pass a special law to make them do that.

So by making those in the Federal Government participate and cooperate, we made a lot of headway in making the fathers do something for their children rather than leave them suffering, or on welfare, or needing to go on welfare.

Mr. SCHMITT. I think the Senator agrees that everything we did in the past might not have been right.

In this case, I think we could have found, and may someday find, a better solution to the problem.

My concern is the integrity of the tax system. It is bad enough that people have to pay as much as they do. But it is clear we must have a system based on voluntary compliance.

What we are headed toward, because of efforts like this and the overwhelming burden of taxes in this country, is a nonvoluntary tax system. That, I think, is something this country can ill afford to have, a nonvoluntary tax system. A negotiated tax system is already creeping into major parts of our economy.

It will cost us an extraordinary amount of money in revenue if we end up in that position.

This is just a further push in the direction of a nonvoluntary tax system, a negotiated tax system, and I do not think we need that position.

Mr. President, the real issue before the Senate on this amendment is the role of the IRS. Is it a tax collector or a debt collector?

If we need a debt collection agency, let us talk about it. But let us not jeopardize the voluntary system of tax payments in this country by having the IRS become a debt collector.

We should face that question directly and not through the back door as is now being done with the AFDC provisions and would be further expanded under the provisions in the bill.

In a sense, the nose of the IRS camel is under the tent and the camel is trying to get in. I would like to bat that nose a bit with a 2 by 4.

I hope we can agree we should keep it out of debt collection, but we should also commit ourselves to finding ways in which debts can be collected.

As a matter of fact, I think that was one of the principal forces behind the passage of the legislation that created the inspectors general. That is what they should be doing, creating within the agencies the kind of environment in which these debts are collected, without resorting to the IRS.

It is a very dangerous area, without adequate philosophical debate, and that is what I hope my colleagues will recognize, also.

Mr. President, I would be happy to yield back the remainder of my time if my colleagues are finished.

Mr. TALMADGE. Does the Senator from Kansas desire time?

Mr. DOLE. Just long enough to make a statement in opposition to my distinguished colleague from New Mexico.

Mr. President, I appreciate the concern of the Senator from New Mexico that the Internal Revenue Service should not be turned into a debt-collection agency with freewheeling powers which threaten the rights of individuals. However, I do not believe the very limited but effective use of the IRS to collect child support payments should be halted.

It is true that the Department of the Treasury opposed this duty originally, but the Senate Finance Committee spent a great deal of time drafting legislation to meet the concerns of the Department when this program was originally put in place. The IRS has not been used to collect child support payments very often, but the authority to use the IRS when necessary is very important.

This program has already been extended to non-AFDC families in the past, but the authority has not been made permanent. The non-AFDC authority was not allowed to lapse because of the objections of the Treasury Department or anyone else, however, but only because the press of legislative business at the end of the last Congress caused a lack of action on a number of provisions relating to the child support, AFDC and social services programs. It is my understanding that the Treasury Department has specifically stated that it has no objection to extending the child support collection authority to non-AFDC cases.

While it is true that the first and most important duty of the Internal Revenue Service is to collect taxes, there does not appear to be a more appropriate agency to collect other debts owed to society which can help ease the tax burden of those who do meet their obligations willingly. Therefore, I oppose the amendment and hope my colleagues will oppose it as well.

(Mr. BAUCUS assumed the chair.)

Mr. TALMADGE. Mr. President, I yield such time as I may need.

Mr. President, I reiterate that the IRS has already done exactly this. The IRS is cooperating with the States to help them run down a man who abandons his wife and his children and, when requested by the State, to collect support payments when the children are on welfare.

All this committee bill would do would be to extend that to help the States enforce decrees that have become State judgments, when the man has fled the jurisdiction of the State, concealed himself, and refused to comply with the court order and the State law.

If we cannot have the Federal Government working in cooperation with the States to enforce decrees, I do not know what we ought to do, Mr. President.

If I remember my constitutional law, the Constitution of the United States says that all States shall give full force and credit to the judgments of the courts of every other State.

If the Constitution means what it says in giving full force and credit to the judgments of the courts of the States, why should the IRS not come in, when a State says, "Well, Mr. IRS, help us locate this man and collect the support from him."

The man has fled, concealed himself, and will not pay a judgment of the State

of New Mexico, or Louisiana, or Georgia, or Kansas. Why not help the States track him down and make him support the wife he abandoned, the children be abandoned, in order that that wife and children will not become recipients of welfare, rather than force the taxpayers of New Mexico, Louisiana, Georgia, or Kansas to have to step in his shoes and support that family.

Now, what is wrong with that? That is what my amendment does.

Mr. SCHMITT. If the Senator will yield, I will tell him what is wrong with it.

It ignores the basic problem the Senator from New Mexico is raising. The problem is whether the IRS ought to do this, or some other agency.

The IRS is a tax collection agency. It has to stay that or we are going to lose the benefits of a voluntary system. That is the fear of the Senator from New Mexico. The Senate agreed with me last fall, in September, and I hope it will agree with me today.

Mr. LONG. I yield myself 1 minute.

Mr. President, the Senator's argument is based on the theory that the IRS is not a debt-collecting agency. Any time someone fails to pay his taxes, he owes a debt to the United States. At that point, it is the business of the IRS to collect the debt, and they are very good at it. They will put you in the penitentiary, if necessary, in order to make you pay that money. They are so good at it that they should help this woman and her children. Make poppa pay for their support. The IRS knows where to find him.

Mr. President, we are not asking that the IRS initiate the charge. All we are saying is that when a State does everything it can to help that mother and those children so that they can be supported in dignity, as they have a right to be supported by the parent, at that point the Federal Government should cooperate and help. It seems reasonable to this Senator.

Mr. SCHMITT. Mr. President, those little women and little children will have the Government's help in finding the spouses and collecting the money from them, and the agencies are in place to do that, and it does not have to be the IRS. The Senator from Louisiana has to agree with that. It just does not have to be the IRS.

The IRS, in spite of the Senator's semantics, is a tax collection agency. If there is nonpayment of taxes, it is still a tax. You can call it a debt, if you wish. Call it a debt, as the distinguished majority leader once gave us the benefit of. You can call it anything you want, but it is still a tax; it is not a debt.

Mr. STEWART. Mr. President, will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. STEWART. I have listened to the debate with great interest, and I have heard the Senator from New Mexico mention from time to time an alternative agency or an alternative method he has in mind for the collection of these moneys. Will he tell me where he would suggest placing this?

Mr. SCHMITT. First, the basic responsibility will be with the agency under which the program is administered.

The inspectors general were created in order to see that agencies carried out their functions, to minimize fraud and abuse of their programs. This is a form of fraud and abuse of their programs.

First, I would like to see us insist that the inspectors general who are within the given agency do the job they are supposed to be doing. Or, as a supplement, as I indicated, the Veterans Administration is now working at this, and there is a bill before the Senate to give it the authority to use private collection agencies as part of this function.

There are other possibilities, besides the IRS. My concern has to do with the IRS becoming something other than a tax-collecting agency and beginning to erode the voluntary nature of our tax system.

In addition, there are real questions about the Privacy Act and the IRS providing agencies with information they would have. There are real questions as to due process in some instances of this kind. I do not think the IRS should be a collection agency.

I am not at all arguing with the distinguished Senators that we must do a better job than we have done. I am raising the philosophical issue of what the function of the IRS is in this Nation and what the value is of the voluntary tax system, not that we should not try to collect the money.

Mr. STEWART. When the Senator talks about using a private collection agency, is he making that suggestion to enforce a State court decree? Is he talking about that?

Mr. SCHMITT. Excuse me?

Mr. STEWART. Is the Senator talking about using a private collection agency in aiding or assisting a State court decree?

Mr. SCHMITT. This is now being examined by the Veterans Administration as a potential way of collecting debts owed to it. It is under contract to the Federal agency.

It is not my understanding that there would be anything illegal about private debt-collection agencies, under contract, collecting funds for either the States or the agencies under which they fall. Obviously, that is something that will have to be examined.

My point is that we have not looked at the alternatives to the IRS. We immediately turn to the IRS as a collection agency. I do not think that is right. It is one of the fundamental aspects of our tax system.

Mr. STEWART. I thank the Senator.

Mr. SCHMITT. Mr. President, I will be happy to yield back the remainder of my time.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining, and the Senator from Louisiana has 14 minutes remaining.

Mr. LONG. Let me read this:

No amount may be certified for collection under this subsection except the amount of the delinquency under a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse—

The State will pay for the Federal Government to do it—

the United States for any costs involved in making the collection.

Mr. President, it is costing us billions of dollars that we must assess on taxpayers to support these little children, where the father walks off and leaves them. Some of these families, to be sure, are not on welfare. Those we are talking about right now are not, and we do not want them to go on welfare. We do not want to force an honorable, decent woman to go in and apply for welfare when that father is well able to support those children. She should not even be eligible for welfare, because she should be able to obtain support to provide adequately for her children.

Down through the years, we had to fight to make the IRS even tell where those fathers were, when the IRS had the information and knew where to find them. We managed to win that. Then one agency and another did not want to be bothered. We had to overcome that, and in doing so, we are saving the Government about $500 million a year in unnecessary welfare costs. That is just a beginning.

We can save this Government billions of dollars by fixing it so that people cannot escape their duty to their children. Why should not the IRS, which has the information, tell the State where the fellow is? Why should not the IRS, when the State has done everything it can to try to collect support for the children, cooperate and help to collect that money?

We are doing that with regard to the welfare cases. If you want it to work, you will fix it so that it is the thing to do to support your children.

When people thumb their noses at their own children and at the mothers of those children, and when the local and State governments are trying to help those families, we should not require those mothers and little children to suffer in silence. When the State wants to help them, the Federal Government should cooperate.

Mr. SCHMITT. Mr. President, I remind my colleagues that the existing debt-collection efforts relative to AFDC recipients are not particularly overwhelming. In 1978, as I indicated, there were 17 cases, and the total amount involved was $15,000.

I also remind my colleagues that where the IRS creates voluntary compliance through fear—fear of an audit, fear of being caught and not paying your taxes—this debt collection would operate in reverse. The fear would be that the IRS would begin to attach any resources, and withholding would decrease. That is the concern of the IRS.

We would begin to see, if we continued to erode this system by putting more debt collection in the hands of the IRS, an erosion of the voluntary system. As I indicated, a 1-percent decrease in voluntary withholding would result in $4, $5, or $6 billion less revenue to the Federal Government, which would have to be collected in other ways.

I hope my colleagues realize that the vote on this amendment is not a vote relative to whether we should collect the payments or not but whether the IRS should be put further into the business of collecting debts for the Federal Government. There are other and better ways to do it. We must be willing to examine those ways and to put them into place, without violating the tax system of this country or violating the rights to due process of the people of the United States.

Mr. TALMADGE. Mr. President, I will take about 30 seconds.

Every provision of privacy and due process in the code is preserved by this amendment.

It will not add one additional Federal employee to IRS. All it does is call on IRS to carry out the constitutional provision that full faith and credit will be granted to the decree of every State in this Union.

Mr. President, I am prepared to yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

Mr. SCHMITT. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico.

On the question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 28, nays 66, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—28

Armstrong	Hayakawa	Riegle
Bayh	Humphrey	Schmitt
Biden	Jepsen	Stafford
Bradley	Kassebaum	Stevens
Danforth	Laxalt	Stevenson
Domenici	Leahy	Wallop
Durenberger	Lugar	Warner
Garn	Mathias	Weicker
Hatch	McClure	
Hatfield	Pryor	

NAYS—66

Baucus	Cannon	Eagleton
Bellmon	Chafee	Exon
Bentsen	Chiles	Ford
Boren	Church	Glenn
Boschwitz	Cochran	Hart
Bumpers	Cranston	Heflin
Burdick	Culver	Heinz
Byrd, Harry F., Jr.	DeConcini	Helms
Byrd, Robert C.	Dole	Hollings
	Durkin	Huddleston
Inouye	Muskie	Schweiker
Jackson	Nelson	Simpson
Javits	Nunn	Stennis
Johnston	Packwood	Stewart
Levin	Pell	Stone
Long	Percy	Talmadge
Magnuson	Pressler	Thurmond
Matsunaga	Proxmire	Tower
McGovern	Randolph	Tsongas
Melcher	Ribicoff	Williams
Metzenbaum	Roth	Zorinsky
Morgan	Sarbanes	
Moynihan	Sasser	

NOT VOTING—6

Baker	Goldwater	Kennedy
Cohen	Gravel	Young

So Mr. SCHMITT's amendment (UP No. 934) was rejected.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 745, AS MODIFIED

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Wisconsin (Mr. NELSON).

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. HUDDLESTON, proposes an amendment numbered 745, as modified.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 935

(Purpose: To amend the maximum level of family benefits)

Mr. METZENBAUM. Mr. President, I call up an amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself, Mr. GOLDWATER, Mr. CRANSTON, Mr. MAGNUSON, Mr. KENNEDY, Mr. WILLIAMS, Mr. MCGOVERN, Mr. DURKIN, Mr. WEICKER, and Mr. EAGLETON, proposes an amendment numbered 935.

The amendment is as follows:

On page 34, strike lines 4 through 11 (inclusive) and insert in lieu thereof the following:

"Any reduction in this subsection which would otherwise be applicable, shall be reduced or further reduced (before the application of section 224) so as not to exceed 100 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger)."

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to yield the floor to the Senator from South Carolina (Mr. THURMOND) for a period not to exceed 5 minutes and that the 5 minutes not be charged against the consideration of this amendment, either against the proponents or opponents.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I wonder if the Senator would be kind enough to make it about 8 minutes, in view of replies that others may make.

Mr. METZENBAUM. Mr. President, I have no objection.

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

THE NEED FOR REMEDIAL LEGISLATION TO CLARIFY PROBLEMS WITH THE SOCIAL SECURITY "EARNINGS TEST"

● Mr. THURMOND. Mr. President, while the Senate has under consideration the pending social security disability legislation (H.R. 3236), I would like to address the need for prompt Senate action on legislation to remedy certain unanticipated and unintended problems that have arisen from application of the changes made in the social security earnings test by the 1977 Social Security Act Amendments. As a result of unforeseen effects of the 1977 amendments, thousands of retired persons have suffered a loss or drastic reduction in social security benefits, and many others who are planning to retire in the near future also face the possibility of substantially lower retirement incomes, if corrective legislative action is not soon forthcoming.

One of the unintentional ramifications of the 1977 Amendments that has greatly concerned me and many of my constituents is the treatment of income earned for services rendered by self-employed persons prior to retirement, but actually received by them after they retire and apply for old age insurance benefits. For example, many self-employed insurance agents receive renewal commissions during their retirement years on policies sold by them before retirement; farmers often are paid, after the time when they begin drawing social security, for crops and livestock raised prior to retirement; members of partnerships, including attorneys, accountants, and other professionals, customarily are paid after retirement for services rendered before retirement and for capital contributed to the partnership.

Before the 1977 amendments to the social security earnings test, the receipt of such deferred income after retirement by formerly self-employed persons did not affect their social security benefits, because the recipients were not performing substantial services.

They were, in fact, retired. However, when the law was changed to eliminate the "substantial services" and "monthly earnings" tests, these deferred income payments were counted as "earned income," which causes a reduction in social security benefits if it exceeds the annual earnings limitation amount. It is now clear that Congress never intended this to be the result of the 1977 amendments, and that remedial action is warranted.

In an effort to expedite Senate action on this matter, I introduced S. 2083 on December 5, 1979, and I am pleased that the distinguished ranking member of the Finance Committee, Senator DOLE, joined with me then as an original cosponsor. Several other Senators have introduced related legislation, including Senators DURENBERGER, MATSUNAGA, and DURKIN, and I understand Senator DOLE

also earlier authored a bill to remedy the problem as it relates to farmers. I believe that the distinguished chairman of the Finance Committee, Senator LONG, shares these concerns, inasmuch as he offered an amendment in 1978 with Senator CURTIS to correct some of these inequities. Unfortunately, that legislation was not enacted.

Mr. President, I am prepared to offer an amendment at this time to the pending bill. This amendment would clarify application of the earnings test as it relates to retired, formerly self-employed persons who are receiving deferred payments for preretirement services. However, I have been advised that, although the pending bill relates to social security, this amendment would be considered nongermane. Furthermore, since I introduced S. 2083, the House has passed legislation (H.R. 5295) to take care of this matter and several closely related problems involving application of the new social security earnings test. I believe there is substantial sentiment and good reason to address all of these related problems in one package.

In view of these considerations, Mr. President, I do not intend to offer this amendment at this time. However, I would like to elicit some assurances from the managers of the bill that prompt action will be forthcoming by the Finance Committee to rectify these inequities, which are causing severe hardships for thousands of retired persons. I wonder if the distinguished chairman and ranking member of the Finance Committee would see fit to comment on the prospects for early Senate action on the House-passed bill, H.R. 5295, the bill Senator DOLE and I introduced, S. 2083, or other legislation which might be reported to address these serious problems.

I also hope that the chairman of the Social Security Subcommittee, Senator NELSON, could give us some assurance of prompt attention to this matter by his subcommittee.

Mr. DOLE. Will the Senator yield?

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, let me assure the distinguished Senator from South Carolina that I share his concern about this situation. As the Senator stated, the Senator from Kansas did cosponsor legislation with him. The Senator also correctly noted that the distinguished former Senator from Nebraska, Senator Curtis, and the chairman of the committee (Mr. LONG) made certain changes.

I do believe the Finance Committee should act promptly on this issue, and I plan to bring it up at the earliest opportunity this year. We need to look at the total problem of the committee before deciding on how to proceed.

I think the Senator has suggested maybe some kind of a package arrangement. But I hope that we are in a position—at least this Senator is, speaking on behalf of Republicans on the committee—to make some commitments for early action and hearings on this proposal.

Mr. THURMOND. Mr. President, I wish to thank the able and distinguished Senator from Kansas and express my appreciation for his interest.

Mr. President, I yield to the able and acting chairman of the committee (Mr. TALMADGE).

Mr. TALMADGE. Mr. President, the distinguished chairman of the committee has been called out of the Chamber briefly. He will return. I am sure our committee will look favorably upon this matter, if budget limitations permit.

As you know, we are engaged right now in a conference with the House on the windfall profits tax bill, and that will take some time to conclude. We also have other matters that will expire this year.

But I hope that we could get early action of the committee. I am sure I speak for the chairman when I say that the committee will give it urgent consideration.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Georgia, the acting chairman of the committee, for his consideration of this matter. I yield to the distinguished Senator from Wisconsin.

Mr. NELSON. Mr. President, I wish to say to the distinguished Senator that I can see no problem in the Finance Committee since about 2 years ago the Finance Committee passed legislation addressing itself to precisely the issues which have been raised here as a consequence of the change in the 1977 amendments. We passed the legislation which addressed this problem with regard to farmers, salesmen, teachers, and students in the Senate and it went to the House.

The House has now passed a bill covering all of these problems. I believe they passed it 360 to 0. That bill is now pending in the Finance Committee. So far as I know, there is no controversy about it. At the earliest opportunity I would expect the Finance Committee to act unanimously on this question as it did 2 years ago, and that it would then come to the floor and pass here again. Since we will be passing the House bill, that will resolve the matter.

Mr. THURMOND. Mr. President, I thank the able Senator from Wisconsin, the chairman of the Social Security Subcommittee of the Finance Committee, for his interest in this matter and his commitment, if you will, to try to have hearings as soon as possible. Again, I want to say that the bill the House passed is a package, as the able Senator referred to it, and if we can get action on it soon, it will remedy this situation and will certainly prevent inconvenience to a lot of people.

I thank all Senators.

I thank the able Senator from Ohio for his kindness.

UP AMENDMENT NO. 935

Mr. METZENBAUM. Mr. President, the social security disability amendments which the Senate is considering today contain both progressive and regressive measures.

Although the bill is praiseworthy for its thoughtful efforts to assist disabled workers to return to the work force, we cannot overlook a major provision of the bill which, if enacted, would have deeper and more severe repercussions, than could ever be offset by the total of the bill's progressive components.

Our amendment offered today is cosponsored by Senators GOLDWATER, CRANSTON, MAGNUSON, KENNEDY, WILLIAMS, MCGOVERN, DURKIN, EAGLETON, and WEICKER.

It would modify the cutbacks contained in section 101. I believe they are ill conceived and so harsh that they are punitive. They represent an unwarranted and precedent-shattering cutback of existing social security program benefits.

Section 101 would, if enacted into law, break a solemn agreement between the Congress and the people, a promise which lies at the foundation of the social security contributory insurance system.

It would break the promise we have made to America's 100 million workers, that if and when they need their social security benefits, those benefits will be there for them.

Section 101 is entitled "Limitation of Total Family Benefits in Disability Cases." The title sounds inocuous, but let us look at the effects on a typical American family if it is enacted.

In this family the wage-earner is age 40 with a spouse and two children. If the wage-earner's average weekly wages were $250, and if he is disabled in an accident today, then under the current law, he, his wife and two children would be entitled to a weekly disability benefit of about $184. This constitutes a pretty tight budget for four persons, especially with two growing children.

But, under the bill before us today, that already meager benefit level would be cut down to about $161 a week. This is a loss of $23 a week; we would be breaking our promise to the average American family to the tune of $100 a month.

We would be going back on our word by about 13 percent. In total, this is a $1.5 billion social security benefit cut.

What is most ironic, is that the Congress would be breaking its word to this average family with the worker's own money because the disability insurance program, like the entire social security title II program, is a mandatory contributory program.

I do not believe that we should break our promise to the worker who has put in 20 years of social security taxes. But today's bill presents us with a sweeping average 10- to 15-percent reduction.

The cutbacks mandated in this bill have drawn criticism from respected social security experts and concerned organizations throughout the country. Among those most critical of the philosophy and impact of sections 101 and 102 are six men who are intimately familiar with the social security disability program:

John J. Corson, former Director under President Roosevelt, of the Bureau of Old Age and Survivors Insurance.

Charles Schottland, Social Security Director in the Eisenhower administration,

William Mitchell, Commissioner of Social Security for Presidents Eisenhower and Kennedy.

Robert Ball, the Commissioner of Social Security under Presidents Kennedy, Johnson, and Nixon.

Samuel Crouch, former Director of the Bureau of Disability Insurance under Presidents Eisenhower, Kennedy, Johnson, Nixon, Ford, and Carter; and Wilbur J. Cohen, a distinguished former Secretary of the Department of Health, Education, and Welfare.

And they are joined in their opposition by a spectrum of national organizations, including the National Council of Senior Citizens, the American Association of Retired Persons-National Retired Teachers Association, the Disabled American Veterans, the National Association for Retired Citizens, and the National Association of Catholic Charities, just to name a few.

Well, then, who supports sections 101 and 102? The Finance Committee report argues that the disability program has grown too rapidly, that some disabled beneficiaries receive windfall benefits, and that the general benefit level acts as a disincentive to rehabilitation and to getting the worker back into the work force.

If all these arguments were true, then we would have a compelling reason to move quickly to reassess and adjust the administration of this program.

But the fact is that these arguments are inaccurate and outdated. So I would like to respond briefly to each of these supposed justifications for this unprecedented social security cutback.

Concerns that rapid, unanticipated growth would bankrupt the disability trust fund began in the early 1970's, but are not well founded today. The number of disability applications peaked in 1975, and there has been a strong and steady downturn since then, both in the number of awards of benefits, and in the number of awards per 1,000 insured workers. The Finance Committee's own report notes that there were 94,289 fewer disability awards in 1978 than in 1975, and that the 1978 rate of 5.2 awards per 1,000 insured workers is much lower than the 1975 rate of 7.1 awards per 1,000 insured workers.

The Finance Committee report also notes that—

> In the first 5 months of 1979 this trend continued, with awards in that period about 13 percent lower than for the same five month period in 1978.

So the program has seen a 23-percent decrease in new participation between 1975 and 1978 and is looking at a decrease that could amount to 13 percent fewer awards this year than last year.

Further proof that the disability program is totally under control comes from reading the most recent disability insurance program statistics.

First, there are actually fewer people receiving benefits now than there were a year ago. The program has 13,000 fewer beneficiaries, a reduction of one-half of 1 percent.

Second, the number of disabled workers entering the program over the last 3 months was the lowest of any 3-month total since 1971.

We are actually looking at a program that is growing smaller, not larger, which proves that the administrative remedies have taken hold.

It is very hard to argue that we have a runaway program on our hands.

Next we should look at the assertion that some program beneficiaries receive more in benefits than they had in predisability earnings. This is an assertion that is extremely misleading. The fact of the matter is that the term "previous earnings" means an average from a lifetime of covered earnings.

It is not an accurate representation of total earnings, including fringe benefits, immediately prior to the onset of disability.

But in order to clarify the point and to make it explicitly clear, our amendment, in unequivocally clear language, would make it clear that no person would receive more in security disability benefits than he or she received in average wages during their working years, or than they are entitled to through their primary insurance amount.

This amendment differs from the amendment that I described in my "Dear Colleague letter," in that this amendment answers the one question that I have heard most frequently in discussions of this bill. This amendment sets a firm cap on family benefits, and that cap makes it completely impossible for any worker to get a benefit check that is more than his or her average monthly wages.

This should lay to rest the concerns of those who believe that the disability program has become, not an income replacement program, but a welfare program.

This amendment allows us to maintain the integrity of the trust funds, at the same time that it permits us to return to disabled persons a fair and equitable benefit.

The Finance Committee bill cuts an average of 15 percent off everybody's benefits to get at a few benficiaries whose benefits have been placed in question. This is too high a price to pay, and too precipitate an action to take. It is against the integrity of the social security program.

Mr. President, I believe that these facts argue persuasively against the wholesale benefit cuts which this bill imposes on disabled workers.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the specific language of the total disability.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Section 223(d)(2)(A) of the Social Security Act.
>
> The legal definition of disability: "(A person) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists 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."

Mr. METZENBAUM. Mr. President, it is total disability that throws a family into turmoil. It leaves a once productive and healthy worker to a life at home or in the hospital.

It does not become us in the Senate to say to the newly disabled worker, whose own mandatory contributions have gone to build this trust fund. "Sorry, friend. The Senate has decided to break its word to you and your children. We want $60 or $80 or $100 a month back in the trust fund."

Mr. President, we can afford the good provisions of this bill without paying for them through the savings we would realize by enacting the bad provisions.

We can keep our promise to social security contributors and beneficiaries alike. We can eliminate unfair benefits. We can keep an actuarially sound plan, and we can even improve the administration of this vitally important program, if we join to support our amendment to modify the benefit cuts proposed in this bill.

Mr. President, I yield to the Senator from California. How much time does the Senator need?

Mr. CRANSTON. Mr. President, I need about 3 minutes.

Mr. METZENBAUM. Mr. President, how much time does the Senator from Ohio have remaining?

The PRESIDING OFFICER (Mr. TSONGAS). The Senator has 13½ minutes.

Mr. METZENBAUM. I yield 3 minutes to the Senator from California.

Mr. CRANSTON. I thank the Senator.

Mr. President, I am a cosponsor of the amendment offered by the Senator from Ohio. This amendment would refine section 101 of H.R. 3236. This section proposes to place a limit on family disability benefits for individuals becoming entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978.

It is extremely important that the full story on this issue this section addresses be aired before we come to a vote on this amendment. The Finance Committee report on H.R. 3236 lists several concerns which it says necessitate the severe changes in the family benefit structure. I wish to speak to each of the concerns listed by the Finance Committee in order to place this debate in proper perspective.

The Finance Committee says the benefit formula must be changed because there are several situations where the payment of disability benefits to an individual from a number of public disability pension systems resuts in aggregate benefits which exceed the individual's predisability earnings. I do not contend that this problem does not exist to some degree, but rather wish to point out that some important questions are left unanswered by the Finance Committee and that the committee report's statement of this problem is incomplete—although I am sure not deliberately so. I am sure, Mr. President, that the report tries to make the best case possible for the committee's action—not to mislead anyone.

Let us first seek to determine how large a population is receiving this so-called windfall. We are told in the committee report that approximately 6 percent of all DI beneficiaries receive benefits exceeding predisability net earnings.

First, it should be made clear that the 6 percent figure is purely conjecture by the Social Security Administration. According to the SSA, it conducted a random sample of 10,000 DI recipients—note that this was prior to the 1977 Social Security Amendments—and used the benefit levels of these 10,000 beneficiaries to estimate average predisability earnings. Even if we assume that the resultant figure is correct, how does the estimate translate into numbers of families and individuals?

Some useful statistics appear in the October 1979 issue of the Social Security Bulletin published by the SSA. In 1978, there were 457,451 disabled workers receiving DI benefits, 6 percent of that number is approximately 27,000 individuals or families, nationwide, who may be receiving various small amounts over their predisability earnings.

Who are those families? The SSA tells us that about 3 in 4 of the estimated 6 percent were earning salaries below the poverty level—$4,000—before they became disabled and that they are still below the poverty level with their DI benefit.

What are other characteristics of these families? In many cases, their "higher than 100-percent disability payment" is caused by the DI supplement for dependents. That means families in this category tend to be young, with dependents, and, because eligibility for workers age 45 and younger is determined solely on the basis of a strict definition of disability—no consideration is given to social or vocational limitations—these young beneficiaries must be severely disabled in order to be eligible.

Most other so-called abusers of this program are from two-earner families. The Finance Committee paints a shocking picture of these cases on page 70 of their October 1979 Finance Committee publication (Committee Print 96-23), but I ask my colleagues to study this chart carefully. The earnings figures are all hypotheticals—and faulty ones at that. First, the Finance Committee chose to suppose high family earnings for its hypothetical cases.

Second, contrary to widespread public knowledge and data, the committee depicts female spouses as earning amounts equal to their male partners.

Third, the committee report ignores two important facts in its post-disability figures: It does not deduct the typical large expenses which accompany disability, and it takes no account of the fact that the spouse of a disabled worker is often forced to stop working or diminish work hours in order to care for the disabled spouse.

Fourth, after assuming a high amount of predisability earnings, it assumes a high average lifetime earnings for the couple in order to hypothesize a post-disability benefit amount. These assumptions make the situation look far more disparate than it really is.

Without better answers to these questions and concerns, it seems that the Finance Committee is proposing drastic measures, affecting all post-1968 DI claimants after January 1, 1980, in order to cure a very small problem. Is this not rather like attempting to kill and ant with a steamroller?

The Finance Committee report further states that public and private actuarial studies show that high levels of benefits, benefits which replace over 80 percent of a worker's predisability earnings, may constitute an incentive for impaired workers to join the benefit rolls, and a disincentive for disabled beneficiaries to attempt to return to the work force.

This supposition must also be examined carefully. With regard to the public actuarial studies, the SSA's own reports fail to support Finance Committee contenions that "high" benefits have kept recipients from returning to work. In order for high benefits to be a disincentive to return to work, the recipient must be able to return to work. The social security DI program is not an easy one to get on. Former SSA Commissioner Ross presented material during Finance Committee hearings showing that over 70 percent of those who consider themselves disabled and apply for benefits are turned away. An April 1979 social security bulletin stated:

> For most disabled workers whose claims were allocated because they were unable to work recovery is not possible and program incentives to foster recovery are likely to have little effect.

The same Social Security Bulletin says:

> It is not possible to determine . . . the direct effect of receipt of benefits on incentives to remain on the rolls.

On page 17, the same April 1979 Social Security Bulletin points out that age and primary diagnosis explain more of the variance in recovery rates than other factors.

The Finance Commitee report cites on page 40 a private sector actuary who said:

> Claim costs increase dramatically when replacement ratios exceed 70 percent of gross earnings.

Not cited was the testimony of Merton Bernstein, professor of labor law at Washington University Law School and author of a prizewinning book entitled "The Future of Private Pensions." Mr. Bernstein submitted testimony to the Finance Committee arguing that comparing private pension plans to the DI program is like comparing grapes to grapefruit for several reasons.

First, the 70-percent replacement level about which the private sector actuary is speaking applies to a percent of total lifetime earnings. In the public DI program, we are talking about a percent of average lifetime earnings—a very different, smaller amount.

Second, private disability plans are generally found only in higher paying jobs where the replacement rate—70 percent—of lifetime earnings may accurately reflect what a family could actually live on. In fact, according to Professor Bernstein, most private plans are designed to facilitate the removal of active disabled workers, and so are intended to offer very high incentives in order to stop work. When the incentive is far lower, there seems to be no basis for assuming the same cause and effect.

Finally, the Finance Committee, throughout its report, alludes to its concern over the rapid growth of public disability programs. However, my colleagues must note carefully two important points made in the committee report itself: First, experts cannot agree what caused the tremendous growth of the program in years past. Second, and most important, the program stopped growing in 1978. Alice Rivlin, Director of the Congressional Budget Office, wrote to Congressman GIAIMO, chairman of the House Budget Committee, in July of 1979 saying that, while the old age and survivors insurance fund is in trouble, the disability insurance trust fund is strong.

Mr. President, it is of utmost importance that my colleagues consider all these points before voting on this amendment, or on final passage to this bill. We must know and understand fully what the problem is before we decide what medicine to prescribe. Then, in choosing the cure, we must also proceed with caution. One does not amputate an arm to cure a broken finger.

In my view, section 101 of the committee bill would merely result in a transfer of problems to another area, and the hardships this section would cause would overshadow by far the supposed immediate savings it would produce.

For these reasons, I urge the Senate to adopt Senator METZENBAUM'S amendment to H.R. 3236.

Mr. METZENBAUM. Mr. President, I am grateful for the support of the distinguished majority whip.

I ask unanimous consent to have added the name of Senator JENNINGS RANDOLPH as one of the cosponsors.

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

Mr. METZENBAUM. I yield to the Senator from Connecticut 5 minutes.

Mr. RIBICOFF. Mr. President, I rise in support of the amendment offered by the distinguished senator from Ohio. Senator METZENBAUM'S amendment modifies section 101. Section 101 of this bill unreasonably reduce family benefit levels.

In the Finance Committee, I opposed the formulas adopted by the committee concerning these two sections. I continue to oppose them.

It is easy for us in the U.S. Senate to talk in terms of "caps," "formulas" and "budgetary savings," but that is not the real issue before us. The issue is people—disabled, crippled, and paralyzed people. People who can no longer earn a living; people whose whole day may be spent merely trying to sit up in bed; people who cannot bathe themselves; and people who need attendants to feed them. But most important, Mr. President, these are people who at one time were working in the mainstream of the U.S. economy; paying their income taxes and their social security taxes, and now, because of their disabilities, they are unable to work.

If you talk with the people receiving disability insurance, practically all of them would give up all of their benefits just to be healthy and working again.

WORK DISINCENTIVE

Proponents of the committee's reduced "cap" on family benefits argue that these severe cuts in family benefits are necessary to strengthen work incentives and improve recovery rates. Listen to them and you will hear them assert that

"high" benefits deter a recipient from returning to work. This contention is unfounded in theory and fact since it assumes that these disabled people are even capable of returning to work. For the vast majority, this is simply not possible. A look at the criteria used for determining if a person is disabled in the first place makes this obvious.

Under current law, an applicant for disability insurance must be unable because of his or her impairment, to do any work that exists in the national economy regardless of whether or not:

Such work exists in the immediate area in which he or she lives;

There is a specific job vacancy; and

The person would be hired if he or she applied for the job.

Second, given the fact that most disabilities are degenerative in nature, once a person is determined to be disabled, a return to work is highly unlikely. To cut family benefits in the name of work incentives is to ignore reality.

Moreover, Mr. President, the Social Security Administration's own studies fail to support the arguments that "high" benefits have kept recipients from returning to work. The April 1979 study states:

> If a simple disincentive effect in high benefit levels leads to greater benefit dependency, it might be expected that those with the highest benefits would have the lowest recovery experience. The data in this study, however, shows higher recovery rates for those with the highest benefits.

In order for high benefits to be a disincentive to return to work, the recipient must be able to return to work. Most on the program simply cannot work. Moreover, data in the Social Security Administration's own study indicates that those with high benefits return to work in greater numbers.

REPLACEMENT RATES

During the committee's deliberation, there was much discussion about the so-called high replacement rates. That is, social security family benefits replace too much of the beneficiary's predisability earnings. This is simply not true.

The average social security disability insurance benefit replaces only 58 percent of the beneficiary's average lifetime earnings. Furthermore, unlike most private sector insurance plans which attempt to replace income earned immediately prior to disability, social security benefits are based on average lifetime earnings. Therefore, as compared with the private sector, social security replacement rates are lower because a beneficiary's early years of low earnings have to be averaged against his later years of higher earnings which immediately preceded his disability.

Additionally, in regard to replacement rates, the committee focused attention upon the 6 percent of the disabled social security population who receive in excess of their average lifetime earnings. This 6 percent has to be put into perspective. These are people with the lowest predisability earnings. The overwhelming majority of this 6 percent had average annual earnings below $4,000; $4,000 is below the poverty level. Nevertheless, the Metzenbaum amendment effectively reduces the benefits of this 6 percent by providing that no family benefit exceed 100 percent of the worker's average monthly earnings.

Because of their low income, these disabled poor are eligible for benefits under other Federal programs such as SSI and food stamps. But the disabled poor recipient does not get a "windfall." SSI benefits are disregarded dollar for dollar against social security and veterans benefits. And as Senator WALLOP has brought to our attention, disability benefits are offset by workers compensation benefits.

The replacement rates and the benefit levels will be severely reduced by the Senate bill. Under current law, a person with dependents who had average lifetime monthly earnings of $887 receives $724 in family benefits. This is an 82-percent replacement rate.

The Senate bill reduces that $724 benefit level to $635. This constitutes a 72-percent replacement rate and a reduction from current law of 10 percent. This is simply too severe and an intolerable reduction in benefits.

TRUST FUND

In committee the argument was made that greater savings must be achieved and that cuts in family benefits are necessary in the name of fiscal austerity. To this end we are asked to drastically reduce the benefits for disabled, crippled and paralyzed people.

The bitter irony is that the disability insurance trust fund is in no danger of bankruptcy at all.

Furthermore, the annual growth rate of the number of beneficiaries on the rolls is the lowest since the beginning of the program. In fact for the first time ever, the disability insurance program is manifesting a negative annual growth rate and an actual reduction in the number of beneficiaries on the rolls.

Mr. President, I ask unanimous consent to have printed in the RECORD a table to this effect.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Disabled worker beneficiaries in current payment status

	Number (thousands)	Percentage change of workers year-to-year
Beginning of:		
1960	344	40.7
1961	455	36.2
1962	618	35.7
1963	741	19.9
1964	827	11.6
1965	894	8.1
1966	988	10.5
1967	1,097	11.0
1968	1,193	8.7
1969	1,295	8.6
1970	1,394	7.6
1971	1,493	7.1
1972	1,648	10.4
1973	1,833	11.2
1974	2,017	10.0
1975	2,237	10.9
1976	2,489	11.3
1977	2,670	7.3
1978	2,834	6.1
1979	2,880	1.6
1980	2,870	−0.3

Mr. RIBICOFF. Mr. President, in fact, the most recent data available from the Social Security Administration is extremely optimistic and pertinent. The total number of disabled workers receiving benefits for the 3-month period ending with January 1980 is the lowest since the 3-month period ending in January 1971.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum from the Social Security Administration.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY ADMINISTRATION,
January 25, 1980.

To Senator Ribicoff's Office.
From Bruce Schobel, Actuary.
Subject: Recent Social Security Experience—Workers Receiving Disability Insurance Benefits.

Social Security program data for the month of January, 1980, became aavilable this week. The number of disabled workers receiving benefits from the DI program at the end of January is 2,866,387. This figure represents a decline of 0.4 percent from January 1979, when there were 2,879,020 workers receiving benefits.

The number of disabled workers awarded benefits in January, 1980 is 28,572. Monthly award data is subject to considerable variation due to accounting periods and other factors. Therefore, a single month's awards should not be considered significant. However, the total of 92,014 for the three-month period ending with January, 1980 is the lowest since the three-month period ending with January, 1971, when the total was 90,557.

BRUCE SCHOBEL.

Mr. RIBICOFF. Mr. President, the Monday, December 10, 1979, issue of the Wall Street Journal reported that the Social Security Advisory Council indicated that the current social security system is financially sound, and that the often voiced fears about the system's failure are unfounded.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY SYSTEM SHOULD BE FUNDED IN PART BY GENERAL REVENUES, PANEL SAYS

WASHINGTON.—A government advisory panel urged broad reforms in the Social Security system to assure its solvency for the next 75 years.

The Advisory Council on Social Security recommended that part of the system be funded by general revenue derived from income taxes, rather than by payroll taxes.

The council said is proposed financing change would reduce the present 6.13 percent payroll tax rate for workers and employers to 5.6 percent next year. And a payroll tax boost could be put off until the year 2005, Council Chairman Henry Aaron told a news conference.

"The structure of financing Social Security would be improved and made more reliable" if the system relied less on payroll taxes, said Mr. Aaron, a Brookings Institution senior fellow. "The overall structure of the tax system (also) would be improved."

The 13-member council, made up of academic experts and representatives from labor, government and business, also recommended to Congress:

Reducing slightly the maximum portion of workers' wages subject to Social Security taxes;

Gradually phasing into the Social Security system all employes of government and nonprofit organizations;

Improving benefits for divorced women, widows and workers at the low and high ends of the wage spectrum;

Eventually increasing to 68 from 65 the age at which a person is eligible for maximum Social Security retirement benefits;

Shoring up Social Security trust funds during periods of high unemployment by tapping general revenues, and,

Subjecting one-half of all Social Security benefits to income taxes.

In a 400-page report to Congress, the advisory council suggested that the switch from payroll to income-tax financing begin next year in the Medicare hospital-insurance program. Part of the current Medicare payroll tax would be used to finance Social Security's largest trust fund, which pays benefits to the elderly and the survivors of a deceased breadwinner.

The council found that the current Social Security system was financially sound, stating that present low levels of the three trust funds are temporary and have "little bearing on the long-run financial strength" of the system. "Fears so often voiced about the security of Social Security are unfounded," Mr. Aaron told the news conference.

The group stopped short of recommending extension of benefits in certain areas, such as for short-term disability. It also refused to endorse the "full-scale shared earnings" idea, under which wives who don't work could receive benefits based on one-half of a couple's combined earnings.

Appointed every four years to assess the Social Security system, the council has seen many of its past recommendations approved by Congress. But Congress has so far ignored previous councils' recommendations to finance part of Social Security by general revenues.

There is considerable political pressure on Congress to roll back current scheduled increases that will boost the payroll tax rate to 6.65 percent by 1981. Some expert groups, such as the Congressional Budget Office, have said such a rollback might be unsound because the elderly trust fund may face cashflow problems as soon as late 1983.

Mr. RIBICOFF. Mr. President, the disability insurance trust fund crisis has passed. Today, however, we are faced with the prospect of a more devastating crisis: further crippling an already disabled population.

CONCLUSION

I am not one who believes that social security benefits can never be cut, That is not the question here. The question before this body is whether section 101 of the Finance Committee bill constitute a fair and reasonable reduction. I do not think so and I urge my colleagues to recognize this and vote for the Metzenbaum amendment.

Mr. President, I praise to the highest extent the distinguished Senator from Ohio for taking the lead in this most important and fair amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Will the Senator from Louisiana yield 5 minutes?

Mr. LONG. Yes.

Mr. DOLE. Mr. President, I certainly appreciate the efforts of the Senator from Ohio.

Again, it is one of these situations where we have mixed feelings. I took the same position in the committee that the Senator from Ohio is taking here. I offered pretty much the same proposal, but I did not succeed. We got into the question of, how can we compromise, how can we not do violence to the program and still have some concern about expenditures?

I say at the outset that my sympathies are certainly with Senator METZENBAUM, but I believe the solution we came up with in the Finance Committee is a fair compromise and I continue to support it.

We debated this issue for some time and we compromised at the figures in the bill.

I guess there are Senators on the Finance Committee, and others on the floor, who would like to loosen the cap, and there are probably just as many who would like to tighten it.

It is my understanding the distinguished Senator from Oklahoma, the ranking Republican member of the Budget Committee, will offer an amendment to, in effect, tighten the program.

So I think the case is made for the committee position. We have on the one hand the Senator from Ohio who seeks to loosen the cap—and I certainly do not question his motives, I can understand the fine support he has. Then, on the other hand, we have someone else who would move in the other direction, who has just as much concern for the disabled and the program, but also understanding the need for some restraint.

When the Finance Committee discussed the family benefit cap, we had the House formula in front of us, and we had other formulas in front of us. Some of the formulas would have achieved more savings than we eventually approved, and others would have achieved less savings. There was concern from individuals on both sides of the issue that we were not proceeding correctly. On the one hand, some members felt that we were not going far enough to limit benefits. On the other hand, some felt that we were going too far in that direction.

Those of us who were concerned that the proposed benefit cuts would unduly harm the disabled—particularly those who will never be able to work again and yet who are still young and have families to support—wanted a much less stringent formula for the family benefit cap than the one passed by the House of Representatives. We suggested that family benefits be limited to 90 percent of an individual's earnings averaged over the 5-year period of highest earnings.

Those who were most concerned about effecting savings to the trust fund wanted a formula more stringent than the House formula, such as 80 percent of average indexed monthly earnings (AIME) or 130 percent of the individual's primary insurance amount (PIA). Because a case could be made for both points of view, and because there was strong sentiment on both sides, we reached a compromise somewhere in the middle as indicated previously.

To move the issue, I offered a formula of 90 percent of AIME or 175 percent of PIA. The chairman suggested that we meet halfway between that formula and the formula in the House bill at 85 percent of AIME or 160 percent of PIA. The committee accepted the chairman's suggestion in the spirit of compromise and with the hope that we could report a balanced bill which included work incentives and administrative improvements but met the budget goals set by the chairman to report no bill from the Finance Committee with a net cost.

I suggest that if this amendment is adopted, and particularly since we have adopted that of the Senator from Indiana (Mr. BAYH), there will not be any net savings.

Let me point out to both sides that we have included in the bill a mandate for the Secretary of Health, Education, and Welfare to monitor very carefully the impact of the family benefit limit and to report to the Congress on its effects. If we find that we should change the cap—either loosen or tighten it—we will have that opportunity after we have more information on the effect of the limit.

The PRESIDING OFFICER. The Chair advises the Senator from Kansas the time has expired.

Mr. DOLE. One additional minute?

Mr. LONG. Yes.

Mr. DOLE. So, Mr. President, I suggest a good-faith effort was made. A lot of time was devoted to this particular issue.

Those of us on the committee who felt, as the Senator from Ohio felt, did not have the votes. Those of us who felt as the Senator from Oklahoma may feel did not have the votes. It was not a clear cut decision. We agreed on a compromise.

The Senator from Kansas accepted that. It seems to me, if we want any bill at all passed today or tomorrow, whenever we finish this bill, we ought to stick to that compromise.

I thank the chairman for letting me proceed.

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

The PRESIDING OFFICER. They have not.

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

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, the disability program is costing far more than anyone ever anticipated. It was estimated in the beginning that this program was going to cost us about one-half of 1 percent of payroll over the long run.

By those standards, Mr. President, the program at this time would be costing us about $4 billion, if we had been able to hold the disability program to what we intended when we got into it.

The distinguished Senator from Georgia at that time, the Honorable Walter George, made the speech on behalf of the minority of the committee who were supporting the amendment and he made a very persuasive statement that the cost could be contained. I have no doubt he was completely sincere in that.

I am sure that great statesman would be very disappointed if he were with us today to look and see how this cost is running four times the estimate. The long-range cost is running almost 2 percent of payroll, and in 1979 it cost about $14.3 billion.

The reason it has run so high is because when the benefits are so generous for people who are declared to be disabled, it provides an incentive for people to contend they are disabled, to convince themselves they are disabled, and to convince other people they are disabled.

When they undertake to do that, it is very difficult to prove that they are not, in many situations; and many of these cases have a lot of compassion to them.

When people have a disability, they have a limitation. But they are not totally and permanently disabled as this bill and this law contemplates. As a matter of responsibility, we on the Committee on Finance, as did our colleagues in the House of Representatives, sought to contain the cost of this program.

Mr. President, the House sent us a bill that would have saved, over a 5-year period, $2.664 billion. They recognized the problems we are speaking to here. We on the Finance Committee tried to do our best to discharge our responsibilities to the taxpayers, and we proposed a bill that would have saved, overall, about $914 million over that 5-year period. In effect, we would have tightened up on the loose ends and loosened up on the tight ends, so that the program would make better sense, as we see it, to take care of meritorious programs more generously and at the same time cut back on some things where we felt the program had gotten out of hand.

The Bayh amendment, as agreed to by the Senate, would reduce that $914 million saving over the 5-year period down to $74 million. If this amendment is agreed to, the noble efforts of the House committee and the House of Representatives to save us $2.664 billion—I confess, not as well achieved in the Senate Finance Committee on the economy part, but still a statesmanlike effort to save us $914 million—will have descended to where the cost of the program will be increased by $731 million over the 5-year period.

So, what started out to be a courageous effort to trim the cost of a program that is out of hand would be reversed, and the bill would bring about a big increase in cost rather than a reduction. I challenge whether we would be justified in doing it.

Let us take one simple case. The people who came here to speak for insurance companies said it is foolhardy to pay for disability more than 60 percent of what the person had been making prior to his disability. They said it is not a good insurable risk if you pay more than 60 percent, because of the great temptation to claim the benefits when he does not have to work. Beneficiaries do not have to pay taxes on these benefits. Furthermore, they have no work expense. They do not have to take transportation to and from work. They do not have to launder their clothes as often. They can stay home.

When we take that into account, Mr. President, and assure someone who has succeeded in having himself put on those rolls as disabled that he is going to get 100 percent of what he was making before, in terms of dollars that means he is really getting something like 120 percent or 130 percent. For sitting around the house, he is getting 130 percent of what he was earning, because he has no work expenses and no taxes to pay.

Mr. President, it is rather foolhardy and it conflicts with all experiences and all insurance principles to make it so generous that people make more money by being disabled or being declared disabled than when they are working on a job.

The committee discussed this. We talked about being more generous and less generous. In looking at the House bill, which would have fixed the rate at about 80 percent, it was proposed to go as high as 90 percent. After considering the various considerations involved, we decided that we would compromise on 85 percent. But that 85 percent of predisability earnings, when we take taxes and expenses into consideration, could result in more net income than the person had when he was working, and that does not make too much sense.

The House had the overall basic benefit set at 150 percent. We set it at 160 percent.

Mr. President, this amendment would cost an additional $805 million over the next 5 years. It would turn a bill that started out to be one to bring the runaway cost of a program under control into one that would accelerate the runaway cost of the program.

Just as a matter of responsibility and duty, to try to protect the taxpayer and to see that his money is spent wisely, that we are not taxing him needlessly, I cannot support the amendment, and I hope very much that the Senate will not agree to it.

I know that the administration was opposed to the Bayh amendment and that the administration will be concerned about this. I think everyone will agree that there are a lot of good provisions in this measure. I fear and I believe that to adopt the amendment would mean that the Senate and the committee would have done its work for naught, that the whole thing would wind up going down the drain.

If it did get as far as the President's desk, I fear the President would feel compelled to veto the bill. I would hate to see that. We have worked hard on the bill, and it contains many provisions that should be enacted. If we upset the apple cart and engage in fiscal irresponsibility, it seems to me that the bill will not become law; and all our good intentions and our desire to benefit workers and their dependents will have failed.

Mr. President, I will read one paragraph of a letter from the Commissioner of Social Security, William J. Driver:

The bill represents a balanced policy to improve protection and opportunities for those entitled to disability benefits while strengthening the insurance principles of the disability insurance program. I hope you will keep these points in mind as you consider H.R. 3236, and oppose any significant amendments designed to breach the balance the Finance Committee has reached in their legislation.

Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE COMMISSIONER
OF SOCIAL SECURITY,
Washington, D.C., January 29, 1980.

DEAR SENATOR: The Senate will shortly consider legislation that would make significant improvements in the social security disability program. The bill, H.R. 3236, was approved without objection by the Finance Committee on November 8.

The bill contains provisions which expand benefits in the disability insurance and the supplemental security income programs and alleviate some of the risks faced by the disabled who want to try to return to work. The legislation would extend Medicare protection for an additional 3 years after a disabled person returns to work. It would permit the disabled to deduct impairment-related work expenses in determining whether they meet the disability earnings test. And, it would permit automatic reinstatement of benefits to those disabled beneficiaries who are unsuccessful in their work attempt. These work incentive features of the bill are consistent with what the handicapped groups have advocated for the program.

This legislation also makes administrative improvements that will result in a fairer, more efficient claims process.

You are no doubt aware that there is opposition to H.R. 3236 because of two provisions that would adjust benefits for some future beneficiaries. One would adjust benefits to workers with dependents so that disability payments would not exceed the earnings on which they are based. A second provision would equalize the way benefits are computed for younger workers so that they are not treated more favorably than older disabled workers.

While the benefit reductions in the bill before the Senate would be less than those in the House passed bill, H.R. 3236 would still save some $600 million by 1984. Whichever version of these provisions is finally enacted, both provisions would improve the equity of the social security disability insurance program and are essential features of the bill.

In the legislation before the Senate:

No current beneficiary would be adversely affected.

The worker's own benefit would not be subject to a cap.

The elderly and the retired would not be affected.

Eligibility requirements for benefits would not be changed.

This legislation is the result of careful study by the Administration and the Congress of the disability program. Examination of the program leads to the conclusion that the program treats some workers more generously than others by providing benefits that exceed pre-disability earnings. These benefits are not consonant with sound social insurance principles. Other features of the present law are clearly disincentives for those disabled beneficiaries who want to return to work.

The bill represents a balanced policy to improve protection and opportunities for those entitled to disability benefits while strengthening the insurance principles of the disability insurance program. I hope you will keep these points in mind as you consider H.R. 3236, and oppose any significant amendments designed to breach the bal-

ance the Finance Committee has reached in their legislation.

Sincerely,

WILLIAM J. DRIVER.

Mr. LONG. Mr. President, the letter is not directed at this particular amendment; but it seems to me that this amendment does clearly breach the balance that Mr. Driver referred to in his letter.

Mr. MOYNIHAN. Mr. President, will the Senator from Ohio yield me 5 minutes?

Mr. METZENBAUM. I yield 5 minutes to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I support my esteemed colleague, the distinguished Senator from the State of Ohio. I concur with his eloquent argument that it would be wrong to place a cap on disability benefits. I voted against such a cap in the Committee on Finance, and I will vote against it today. I would just like to add a few additional comments on the difficult and unfortunate situation we face.

The Social Security Act, the mainsail of our domestic and social policy, has been virtually untrammeled since its inception in 1935. We have, over four decades, strengthened, not weakened, its provisions. What we see before us today is a direct and dangerous assault on the integrity and realiability of our social security entitlements. It is an attack not on disability insurance alone, but on the system as a whole. For by opening up one program to reductions, we set a precedent for future cutbacks in all our entitlement programs.

Just a few short months ago, I stood here arguing the importance of supporting these entitlements. The context then was the Labor-HEW appropriations bill. As we considered slashing that appropriation in the name of eliminating waste, fraud, and abuse from our AFDC and medicaid programs, I warned that next we would be considering cutting the entitlements to pensions for the elderly, the disabled, and the retired. I did not think that that day would arrive so soon, however, and the development does not please me.

Disability benefits, like old-age benefits, are financed through the payroll tax. It is a contributing system from the standpoint of a future beneficiary, in one's long-term financial security. Until now, no one would have thought to slash these benefits, and imperil that security. But now we stand here and are told to put an artificial cap on benefits for the disabled, for people who have contributed throughout their working lives.

It is cruel and it is unfair. We are considering this benefits cap, and this reduction in "drop out years" in the name of saving money. But think about how we are going to save money. We will be cutting costs by hurting those most dependent on Federal help—the disabled, those who cannot work. It is these dependent people that we choose to burden with our impulsive parsimony.

The proponents of the bill would not have us view matters that way. They assert that the costs of disability insurance have skyrocketed, that the rolls have swollen with people undeserving of benefits. The only way to reduce the expense, they suspect, is to cap benefits and try to push people off the social security rolls, presumably by forcing them to return to work.

But will this be the effect? People will not return to work if they are unable to. Instead, they will be forced to accept SSI, welfare, or home relief. We will simply be shifting some of the burden of helping the disabled onto our programs of public assistance. Cutting benefits will not produce a reduction in costs; it will just reallocate some of the expenses from one program to another—and from one tax to another.

Is this the intent of the legislation? Is this how we want to reduce Federal spending? Our priorities seem rather confused. Are we not, by cutting these benefits, penalizing those who will in the future become disabled because of past growth of the program? It seems to me that this is the case, and it seems to me unfair. Not least because we seem to be fighting the last war. We know that the tremendous growth of the disability program has slowed over the past few years. From 1960 to 1978, for example, the number of persons receiving disability benefits grew from just under 700,000 to almost 4.9 million. However, this rate of growth has slowed, and the total number of persons receiving payment seems to have leveled off, at slightly less than 4.9 million, since the last quarter of 1977. In 1979, the rate has declined still more. Secondly, although there has been a slight decrease in the absolute numbers of people receiving disability insurance benefits there may still be some on the rolls who should not be. In any complex national program paying individual benefits to millions of people there is certain to be some confusion, inefficiency, and waste. We have learned much about these phenomena in hearings that I recently held. But we also learned that the problems of needless expenditure result much more from agency waste than from client fraud. And if this is so, then we should be attacking the waste, from the administrative end, rather than slashing the entitlements to the poor and the disabled. We cannot penalize the needy for the sins of the bureaucracy.

There is yet another—and far more fundamental—matter at issue here. The legislation before us is not the result of a disposition in the Finance Committee to take money away from the disabled. The impulse originated elsewhere. Five years ago, Congress passed the Congressional Budget and Impoundment Control Act of 1974. This was thought to be a progressive reform of our budgetary processes and a necessary defense of cherished programs against the executive branch's increasing inclination not to spend the funds appropriated for them. As such, it was supported by many liberal Congressmen and interest groups at the time. They favored a means of insuring congressional control over budgetary decisions.

But as is painfully obvious today, the Budget Act has had some results of quite a different character. Instead of protecting valuable programs, it has become a means of attacking them, and of doing so in a particularly insidious way. Those who prepare the annual budget resolutions—and as a member of the Committee on the Budget I know this process well—never have to take responsibility for the concrete results of their actions. The budget resolution simply directs the other committees, in this instance the Committee on Finance, to cut a certain amount of money somewhere. It is suggested that a portion of this come out of the "income security function." And then it is left to the Finance Committee to decide whose benefits to cut. We are free to slash the benefits of dependent women with children, of indigent hospital patients, of retired persons who worked 40 years for their social security "pensions," of able-bodied persons who were thrown out of work by the closing of a factory, or of disabled persons who cannot work. It matters not that these are entitlement programs. It matters not that persons have come to rely on them. It matters not that reducing these entitlements is harsh. It matters not that in an important sense it is irresponsible.

Those who crafted the budget resolutions that precipitated the "savings" in the bill before us today are free to say "We did not mean for you to cut disability benefits!" They could say that no matter what particular set of entitlements were under the legislation knife.

When the Budget Act was new, I was a professor of political science with a graduate student who was thinking of dissertation topics. I suggested that he might undertake to forecast the events that would result from the Budget Act. And even as a fledgling observer of national affairs, he accurately predicted the sequence of events that we are now living through. He anticipated, 5 years ago, that the new budget procedures would yield "super committees" which, in the name of fiscal responsibility, could command the most irresponsible of social policies without ever having to be held responsible for them.

It is a particular irony that those who today are most upset about the reductions in disability benefits contained in H.R. 3236 include many of the same liberal-minded individuals and groups who were most enthusiastic about the Budget Act in 1974.

I point no fingers and mean to imply no blame. We are living with the consequences of the Budget Act. Some of them are laudable and necessary. Others are—there is no other word—cruel.

Those of us who believe that an entitlement program authorized by the Social Security Act represents a solemn commitment by the Federal Government to the citizens of the United States are now forced into the role of "budget busters." It is not, if I may say, a pleasant position to be in. Nor are we apt to win many battles. But we must do our best, and we will.

Congress does not have to cut entitlement programs that provide the most—and often the most meager—sustenance for some of the least fortunate persons in the land. We must not allow ourselves to be coerced by the

Budget Act into accepting such cuts. I do not accept the cuts embodied in sections 101 and 102 of the bill before us, and I hope that the Senate will demonstrate that it does not by embracing the amendment of the Senator from Ohio.

Mr. President, I point out a matter which is of some concern to me, and I think it may be of concern to others.

The Committee on Finance, of which I am a member, is responding here today not basically to any concerns which arose within our committee with respect to this program but, rather, to a directive we received from the Budget Committee to reduce expenditures for income maintenance.

I do not in the least argue that the Budget Committee has faced difficult decisions this past year, when this decision and directive were made. I am a member of that committee. Even so, I believe that the way in which a working majority of the Budget Committee, through no fault whatever of the chairman, is opposed to so many social enactments of the past generation is having an ominous effect.

We are simply told, "Cut those programs." We are not told which programs, we are not told how to cut them. Those who give that directive are not thereafter responsible for any specific result and can disclaim the intent that it should have been this particular program. Yet, they have nonetheless required that it be one of a very narrow range of programs, all of them in the field of social welfare.

It has become a baleful fact that those who have other uses for Federal moneys—and there always are those, and a majority of the Budget Committee certainly has no special use for this function of the budget, as it is called—it has come to the point where it has simply directed that the "income security function" be cut, and the Federal Government begins to take away what have been understood as entitlements at law when they were enacted.

It was not but about 4 months ago that I stood on this floor with respect to a not dissimilar matter in the social security area and said if we can take away from women and children, which was the question then in the AFDC program, what was considered their entitlements, then the day will not be far when we can take away entitlements from the retired, the sick, and the disabled. Indeed that day has not been far coming.

We have a responsibility to the social security program as a right provided by law: a right not to be diminished in the name of a budgetary action.

If Congress should wish to diminish it by statute, directly addressing the results of the action of such cuts, then this would be another matter. But this is not such a case and it is a very unhappy precedent.

I congratulate the Senator from Ohio for carrying on this battle. It is not over, but we are today doing something that was never thought would be done by this Congress, and we are doing it in response to an act which was one of the favored enactments of the progressives in this Chamber when it took place 5 years ago. It has not taken long for it to become an instrument of certainly anything but progressive social actions.

I am sorry this is happening. I hope this amendment will be approved.

I thank the Chair.

Mr. METZENBAUM. Mr. President, I thank the support of the distinguished Senator from New York.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I simply wish to clarify two points very briefly.

One, there is no effort in this bill to break the cap, as has been suggested by the distinguished minority Member of the minority handling this measure.

As a matter of fact, what is happening is that the cap is being broken by the Finance Committee bill because it is pushing the cap down on a negative basis.

The second thing I wish to point out is that the very distinguished manager of the bill, my good friend from Louisiana, mentioned that there was a threat of a veto. The best information that I have is that there is no such threat of a veto if this amendment is adopted. And if the Senator from Louisiana knows of information to that effect he knows more than I do because we have been advised, at least by the White House, that this is not the case, but if I am misinformed then I stand to be corrected.

As I correct on that? Is there some specific threat of a veto if the amendment is adopted?

Mr. LONG. What I said is that if this amendment is agreed to in addition to what we already have, and if we lay on the President's desk a bill that is going to lose $731 billion it certainly violates the objectives Mr. Driver set forth in his letter, and I think because of the cost of the bill and the burden on the budget the President would necessarily have to seriously consider vetoing the matter.

Mr. METZENBAUM. I appreciate the clarification. That is the Senator's thought.

Mr. LONG. But I would not want to say to the Senator that I have been told that the bill will be vetoed. I have not been told that. But I think what I said speaks for itself and I will leave it.

Mr. METZENBAUM. I appreciate the clarification and thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, the Senator from Oklahoma wishes to offer an amendment to the amendment, as I understand it. That being the case, as far as the Senator from Louisiana is concerned, in order that that might be achieved. I should think it would be appropriate that I yield back the remainder of my time and perhaps the Senator might yield back the remainder of his time. Then I will be glad to see that he has at least half the time to speak on the amendment to be offered by the Senator from Oklahoma because I am very sure he will be opposed to it.

Mr. METZENBAUM. With that understanding, I certainly have no objection and yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The Senator from Oklahoma.

UP AMENDMENT NO. 936

(Purpose: Substitute amendment to Metzenbaum UP Amendment No. 935, to amend the maximum level of benefits)

Mr. BELLMON. Mr. President, I send to the desk a substitute amendment for the Metzenbaum amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 936 to the unprinted amendment of the Senator from Ohio (Mr. METZENBAUM) numbered 935.

In lieu of the language proposed to be inserted, insert the following UP amendment 935:

any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced, (before the application of section 224) to the smaller of—

"(A) 80 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 130 percent of such individual's primary insurance amount.".

Mr. BELLMON. Mr. President, I yield myself such time as I may require.

This substitute amendment has the same effect as the amendment that had originally been filed and printed as amendment No. 741.

What the amendment does is to provide for a lower family benefit cap than is proposed in the reported bill. It would limit monthly disability insurance benefits for future beneficiaries—I underline the word "future"—for future beneficiaries and their families to the lesser of 80 percent of the worker's averaged index monthly earnings or 130 percent of his or her primary insurance amount.

This amendment will save about $2 billion in Federal funds over the next 5 years. This may sound like a huge cut in the program, but it amounts actually to less than 6 percent of the $35 billion cumulative growth which will take place in the social security disability program costs over the next 5 years under the Finance Committee amendment.

The combination of this amendment and the changes recommended by the Finance Committee will reduce the growth—now I am not talking about reducing the program; we are talking about reducing the growth in costs of the program by about 10 percent over the next 5 years. In other words, even with my amendment there will still be a very considerable amount of growth in this program.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a table showing the effect of this amendment compared with current law and the Finance Committee's amendment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—ESTIMATED OUTLAYS FOR SOCIAL SECURITY DISABILITY INSURANCE BENEFITS

[Based on projections by Congressional Budget Office; in billions of dollars]

Fiscal year	Current law	H.R. 3236 as reported			Amendment No. 741 (Bellmon)		
		Amount saved	Net outlays	Growth over 1979	Additional amount saved	Net outlays	Growth over 1979
1979	14.0						
1980	16.1	0.043	16.0	2.0	0.066	16.0	2.0
1981	18.5	.135	18.4	4.3	.231	18.1	4.1
1982	21.9	.275	21.6	7.6	.419	21.2	7.2
1983	24.0	.467	23.5	9.5	.586	22.9	8.9
1984	26.7	.693	25.8	11.8	.737	25.1	11.1
1980–84 total	107.2	[1] 1.590	105.3	35.2	2.039	103.3	33.3

[1] Increases in administrative costs and changes in other programs cause the overall net 5-yr. savings in the Finance Committee's version of H.R. 3236 to be only $914,000,000.

Note: Totals may not add due to rounding.

Mr. LONG. Mr. President, will the Senator yield to me one moment?

Mr. BELLMON. I yield.

Mr. LONG. Mr. President, I ask unanimous consent that the time in opposition to the Bellmon amendment be assigned to the Senator from Ohio (Mr. METZENBAUM).

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

Mr. BELLMON. Mr. President, I also wish to stress that this amendment does not cut benefits to any person already drawing these benefits. It applies prospectively to persons who will be coming onto the rolls in the future.

This amendment was offered in the House Ways and Means Committee by Representative GEPHARDT and was rejected on the House side by only two votes.

Mr. President, increases in the disability rolls must be a concern to all of us.

Mr. President, I ask unanimous consent that tables showing the growth of disability enrollments in the social security and supplemental security programs be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 2.—GROWTH IN THE DISABILITY INSURANCE PROGRAM

Year	Number of insured workers (in millions) [1]	Applications		Disabled-worker benefits in current payment status		Disability termination rates (rate per 1,000 average beneficiaries on the roll)
		Number received (in thousands)	Rate per 1,000 insured workers	Number (in thousands)	Rate per 1,000 insured workers	
1968	70.1	719.8	10	1,295.3	18	109
1969	72.4	725.2	10	1,394.3	19	108
1970	74.5	869.8	12	1,492.7	20	100
1971	76.1	924.0	12	1,647.7	22	96
1972	77.8	947.5	12	1,832.9	24	84
1973	80.4	1,067.5	13	2,016.6	25	84
1974	83.3	1,331.2	16	2,236.9	27	81
1975	85.3	1,284.3	15	2,488.8	29	75
1976	[3] 87.0	1,233.3	14	2,670.2	31	68
1977	[3] 88.8	1,235.3	14	2,834.4	32	72
1978	[3] 90.6	1,184.7	13	2,879.8	32	

[1] As of Jan. 1 of following year.
[2] Based on preliminary data.
[3] Projection by the Office of the Actuary, Social Security Administration.

TABLE 3.—GROWTH IN THE SSI—DISABILITY PROGRAM

I. FORMER STATE-RUN PROGRAMS FOR AGED, BLIND, AND DISABLED

Year	Number of beneficiaries			Blind and disabled as percent of total
	Total	Old age assistance	Aid to blind and disabled	
1968	2,809,700	2,027,000	782,700	27.8
1969	2,957,600	2,074,000	883,600	29.9
1970	3,098,000	2,082,000	1,016,000	32.8
1971	3,172,300	2,024,000	1,148,300	36.2
1972	3,181,800	1,933,000	1,248,800	39.2
1973	3,172,900	1,820,000	1,352,900	42.6

II. SUPPLEMENTAL SECURITY INCOME PROGRAM (SSI)

1974	3,996,064	2,285,909	1,710,155	42.8
1975	4,314,275	2,307,105	2,007,170	46.5
1976	4,155,939	2,147,697	2,088,242	50.2
1977	4,237,692	2,050,921	2,186,771	51.6
1978	4,216,925	1,967,900	2,249,025	53.3

Mr. BELLMON. Mr. President, I wish to comment briefly on these two tables. In December 1968 about 1.3 million disabled workers were drawing social security benefits. Ten years later, in December 1978, the number drawing benefits had grown to 2.9 million, an increase of 123 percent.

It is important to keep in mind that there were no significant changes in the definition of disability during the 10-year period. During those 10 years the incidence of disability rose from 18 workers per thousand to 32 workers per thousand, almost double.

Even these figures on the social security disability insurance program only tell part of the story. In 1974 the Federal Government took over from the States the welfare programs for the aged, blind, and disabled. The disabled portion of that new program, called the supplemental security income program, SSI, has also grown rapidly. Indeed, the number of disabled persons receiving SSI now exceeds the number of aged recipients in that program, something that was never dreamed of when the program began.

Mr. President, let me repeat that for emphasis. The number of disabled persons receiving SSI now exceeds the number of aged recipients, which is not something any of us expected when we voted for SSI.

In December 1978 approximately 2.2 million persons received disability benefits under the SSI program. This is a growth of 175 percent over the 800,000 receiving disability aid under the predecessor State programs in December of 1968.

So again, Mr. President, let me point out what happened after the Federal Government instituted the SSI program. In December of 1978 there were 2.2 million persons who received disability benefits under that program. That is 175 percent more people than were receiving benefits 10 years earlier under the State programs which SSI replaced.

If we add up those totals, Mr. President, and if we adjust the totals for people who receive both SSI and social security disability insurance, we find that the combined enrollments in the two programs have ballooned from about 2.1 million in 1968 to about 4.3 million in 1978, a growth of 105 percent in 10 years.

While many of the people receiving these benefits unquestionably need and deserve them, we must ask whether these numbers suggest that we have been either too generous with benefit levels or too lax in screening people or, perhaps, we have been negligent in both.

The average social security disability monthly benefit payment has increased from $118 to $32[illegible] from 1969 to 1978.

This is a 178 percent increase during the period when the cost of living rose by about 80 percent.

Even more significant is the fact pointed out by the Finance Committee report that in 1976 a newly retired worker with dependents who had median earnings got disability benefits equal to 90 percent of his predisability earnings, up from a 60 percent replacement ratio in 1967. Part of this is due to the overindexing of benefits under the automatic increase provisions enacted in 1972. This problem was partly corrected by the 1977 amendments which revised the benefit formula, although benefit levels will still rise faster than inflation under the law as it now stands. Higher benefit levels have undoubtedly been an important factor in the increase in the disability incidence rate that has occurred between 1968 and 1974.

At the same time that there have been sharp increases in the disability incidence rate, there have been decreases in termination rates. Those rates have decreased from 109 per 1,000 beneficiaries on the roll in 1968 to about 72 per 1,000 in 1977. Benefit terminations result from both deaths and recoveries. While it is encouraging that the rate of terminations because of death have been dropping, we must be concerned that the rate of terminations because of recovery has also been dropping. This has occurred despite a large investment in rehabilitation services and despite the trend toward younger recipients coming on the rolls. Again we must ask whether the higher benefits have caused people to find ways of staying on the rolls once they get on them.

Mr. President, I would like now to comment a little further on the matter of increased benefit levels. When disability benefit levels approach or exceed predisability earnings, there is a work disincentive. Earlier this year the Secretary of HEW stated that 6 percent of DI beneficiaries receive more through their DI benefits than their net earnings while working and that 16 percent have benefits which exceed 80 percent of their net prior earnings. High replacement rates are an incentive for an impaired worker to file for disability benefits and for those already on the rolls to be dissuaded from returning to work. If we do not change the law these high replacement rates will clearly become even more of a problem. As I have already said, the worker with median earnings when qualified for benefits in 1976 received disability benefits equal to 90 percent of his predisability earnings.

In discussing this problem, the Finance Committee report on H.R. 3236 stated the following:

> Disability income dollars are, in general, much more valuable and have much more purchasing power than earned dollars. The DI benefits are fully tax exempt, as are insured benefits except for employer-provided benefits in excess of $100 a week. For a worker with a spouse and a child, paying an average state income tax, 50 percent of salary in the form of disability benefits may well equal 65 percent or more of gross earnings after tax. In addition, the disabled individual is relieved on many expenses incidental to employment such as travel, lunches, special clothing, union or professional dues, . . . (Page 39, Report No. 96-408)

Furthermore, Mr. President, the income lost due to disability does not create hardships for many of the families affected to the extent one might think. Again, the Finance Committee's report is perceptive on this point:

> Analysis done by the Congressional Budget Office further indicates that it is not correct to assume that a typical disabled worker family is dependent entirely or almost entirely on social security benefits. Disabled workers in families with children derive on average only about 40 percent of their total cash income from social security benefits. The analysis indicates that very few worker families have more than a 10 percent reduction in disposable income as a result of disability. (Page 40, Report number 96-408)

Now, Mr. President, I am not suggesting that many families are not hurt economically by having the breadwinner disabled. Quite the contrary. We need to provide disability benefits to those who are truly disabled. But we must also take care not to encourage people to file for disability—or to stay on the rolls after they once have been determined disabled, by giving them an economic incentive to do so. My amendment would provide for a family benefit cap equal to 80 percent of the individual's averaged indexed monthly earnings (AIME) or 130 percent of his or her primary insurance amount (PIA) whichever is lower. The 80 percent of AIME is the same as the House-passed provision, while the Senate Finance Committee has recommended 85 percent. The 130 percent of PIA alternative ceiling was rejected in the House Ways and Means Committee by only two votes, with the House eventually adopting a 150-percent ceiling. The Finance Committee on the other hand has recommended a ceiling of 160 percent of PIA.

I believe that the cap proposed by my amendment will adequately provide for a worker and his or her family, while still providing the worker with an incentive to return to work. We must remember, Mr. President, that the cap is 80 percent of the average gross income which results in 100 percent replacement of income after taxes and work expenses for the typical case. A disabled worker does not pay any state, Federal or payroll taxes, work expenses, union dues, etc. The 130 percent limitation affects those recipients at the higher end of the income scale, not those who have lower preretirement incomes.

The 80/130 cap on family benefits is fair and adequate. Private insurance companies generally limit benefits to no more than two-thirds of predisability gross earnings to assure that beneficiaries are not financially better off than when they were working. My amendment does not propose a two-thirds limitation of predisability earnings, but rather an 80 percent level.

I ask unanimous consent that a table be included in the RECORD at this point showing the various family benefit caps in the Finance Committee's bill, the House bill, and my proposed amendment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—ALTERNATE SOCIAL SECURITY MAXIMUM BENEFIT LIMITATION PROVISIONS FOR FAMILIES OF DISABLED WORKERS[1]—H.R. 3236

	Present law	Finance Committee bill	House-passed bill	Bellmon amendment[2]
Description of provision	Family disability benefits range from 150 percent to 188 percent of the worker's benefits—depending on the benefit level. In about 1/5 of all cases, benefits exceed 80 percent of a worker's average predisability earnings.	Family disability benefits may not exceed 85 percent of the worker's average predisability earnings or 160 percent of the worker's benefit, whichever is less.	Family disability benefits may not exceed 80 percent of the worker's average predisability earnings or 150 percent of the worker's benefit whichever is less.	Family disability benefits may not exceed 80 percent of the worker's average predisability earnings or 130 percent of the worker's benefit, whichever is less.
Savings to the social security disability program (millions of dollars, fiscal years.)	Not applicable	FY 1980—$41, FY 1981—$138, FY 1982—$247, FY 1983—$338, FY 1984—$415, total—$1,169.	FY 1980—$62, FY 1981—$207, FY 1982—$371, FY 1983—$507, FY 1984—$623, total—$1,7770	FY 1980—$109, FY 1981—$369, FY 1982—$666, FY 1983—$924, FY 1984—$1, 152, total—$3,220.
Monthly family benefit amounts:[3]				
Low earner	$262	$175	$175	$175.
Average earner	$721	$632	$592	$513.
Maximum earner	$992	$907	$850	$737.
Number of people affected (1st full year).	Not applicable	120,000 families; 355,000 beneficiaries.	123,000 families; 358,000 beneficiaries.	150,000 families; 385,000 beneficiaries.

[1] Provision applies only to people becoming newly entitled to benefits after 1979.
[2] Amendment offered by Representative Gephardt during the Ways and Means markup on the bill but defeated by a narrow margin.
[3] Average monthly earings for low earner are $194, for average earner—$882; for maximum earner—$1,700.

Mr. BELLMON. Mr. President, some will question whether or not the amounts shown on this table are an adequate level of income. Mr. President, this is a very legitimate concern, and it raises a point that is very important. Disability insurance was never intended to be a welfare program. It is not, and should not be operated on a basis of whether a benefit is "adequate." By saying that a benefit level is too low and ought to be higher, we are taking the program away from its insurance principles and turning it into a welfare program. In the social security programs, benefits are based not on what an individual ought to have, but on what he or she is entitled to according to his or her work and earnings history.

If a person's benefit is "too low" there are other assistance programs available

to help that individual such as supplemental security income, medicaid, food stamps, AFDC, social services, housing subsidies, and the like. Many of the low earners shown on the table most likely qualify for public assistance, and well they should, as they need other income to provide them with an adequate means of support. We must be wary of using a program such as disability insurance for welfare purposes. It was not meant for that. It was meant to replace part of the earnings of an individual based largely on his contributions to the system, not on what his "needs" are.

That is the welfare responsibility.

This is a very important point, Mr. President, especially in light of the fact that we will soon be considering social security legislation, presumably to avoid or moderate large payroll tax increases now scheduled for 1981. That being the case, we must face the benefit issue head on. My amendment gives the Senate the opportunity to take a needed first step.

Lest any Senators be misled by the $2 billion my amendment would save over the next 5 years, I again want to put those savings in perspective. I refer again to the table I previously included in the RECORD showing the projected growth in the social security disability insurance program over the next 5 years with and without my amendment.

This table shows, Mr. President, that under the Finance Committee bill growth in the disability insurance program will cost the Federal Government about $35.2 billion more over the next 5 years than it would cost if the program could be operated at the 1979 level over that period. If this amendment is approved, the cumulative growth—and I am talking now about growth, not costs—if this amendment is adopted, the cumulative growth over the next 5 years will be $33.3 billion. That is a reduction of about $2 billion. That is the amount of reduction in program growth that this amendment, in addition to the savings already recommended by the Finance Committee will achieve. As I said before, this is equal to about 6 percent of the estimated growth in the program.

So Mr. President, any suggestion that this amendment would wreck the disability insurance program is totally false. This is a modest, reasonable amendment.

In closing, I want to give one example which illustrates why a tighter benefit cap than the Finance Committee proposal is needed. This example is taken from page 64 of the House Ways and Means Committee's report on H.R. 3236.

If a man and wife who have one child each earn $12,000 their total net income will be about $16,600, assuming average deductions. If one of them becomes disabled and the other continues to work under current law their net income will be about $16,700—actually an increase over what they took home prior to the disability. The committee bill would impact very little on this disincentive to return to work. My amendment would give a family of this type coming on the rolls in the future a $15,700 net income with an incentive to return to work of $1,000. I want to stress again that my amendment would not change benefits for people already on the rolls.

I feel, Mr. President, that we cannot allow the present benefit structure to continue if we are to insure the integrity of the disability insurance program. It should not be a welfare program and it should not contain work disincentives. It simply comes down to providing benefits based primarily on earnings histories, and insuring that recipients do not have greater net earnings from being disabled than they had from predisability income. The amendment I offer will make a major step toward resolution of these problems. I urge its adoption.

Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have tremendous respect for the distinguished Senator from Oklahoma, but I am in total disagreement with him in connection with this amendment.

Let me first point out that, as far as the welfare programs in this country are concerned, I think if you adopt the Bellmon amendment you may have a mirage of thinking that you are saving $2 billion by cutting back on disability insurance from a fund that is sufficiently strong at the moment that the President of the United States is talking about borrowing from that fund for social security purposes at a later point in the year.

But the nett result would be, if you adopted the Bellmon amendment, that more people would be drawing down welfare checks in this country in order to supplement their meager income from disability insurance.

The Senator from Oklahoma gave an example—and I will come back to that in a moment. But I would like to first talk about an individual who is earning the minimum wage and his average monthly earnings are $479. The benefit under the present law would be $419. The benefit under the Finance Committee bill would be $407. The Senator from Ohio's amendment would restore the munificent sum of $12 to bring it back to $419. But the Bellmon amendment would cut that figure down to $346.

I submit to the Members of the Senate, assuming this man is a normal married man and has a wife and two children, I cannot, for the life of me, understand, in the times in which we live, how that individual can get by with $479 as a living wage. He cannot. It is impossible.

But now you are going to say to him: "You are totally disabled." And the definition of totally disabled is not a figment of somebody's imagination. It has already been talked about by the Senator from Ohio and the Senator from Connecticut, and pointed out that you not only have to be disabled in your opinion, but you have to be disabled in such a manner that you cannot find a job, not only in your own community, but that you cannot work in any other field and you cannot even work in some other part of the country.

What we are saying to that person is: "We are cutting you from $479 in average monthly earnings, from the $419 that you could get under the present law, to $346." That, Members of the Senate, just is totally unreasonable.

The Senator from Oklahoma said that if a married couple were earning $24,000 and if one of them became totally disabled, and they each were earning $12,000, that somehow their income would rise to $16,700 under the disability provision of this law.

Well, frankly, I do not understand that. I will be happy to have the Senator from Oklahoma explain that in further detail to the Members of this body.

Mr. BELLMON. Will the Senator yield?

Mr. METZENBAUM. On the time of the Senator from Oklahoma, yes.

Mr. BELLMON. Mr. President, it is a very simple calculation. The workers with $12,000 incomes obviously pay taxes. They have certain costs of holding down jobs. When one of the workers becomes disabled and begins to receive these benefits, their combined take-home pay actually goes up by $100 under the terms of the committee bill.

Mr. METZENBAUM. Mr. President, the Senator has to submit a little more to me than that, because I do not accept those figures as being realistic. Each one makes $12,000. One goes off of the $12,000. How does that one now wind up bringing more money in?

Mr. BELLMON. If the Senator will allow me, if a man and wife with one child each earn $12,000, their net income, after taxes, will be about $16,600. That should not be too hard to understand. That is the way tax laws are written.

If one becomes disabled and the other continues to work, under current law their net income will rise to about $16,700, because one of them will be taking home disability insurance payments which are tax free.

It is for this reason that we feel the present law is a disincentive for this person to return to work. The person who goes off disability insurance and goes back to work will actually have less real income than they were getting when one of the two partners was disabled and not working.

Mr. METZENBAUM. Mr. President, I would like to point out to the Senator from Oklahoma that, under the present law, if each is making $12,000, then that would be $1,000 a month and the individual would only receive 77 percent of what their average monthly earnings had been.

I do not understand how—and the income tax rate would not make up that difference. Therefore, I have difficulty, still, in following the point.

But I will continue on with my discussion, because I want to make it clear to the Senator from Oklahoma, who mentioned something about getting more money——

Mr. MUSKIE. Will the Senator yield to clarify a point? The Senator said under present law the benefit would be 77 percent.

Mr. METZENBAUM. Yes. I will yield on that point, because that is correct.

Mr. MUSKIE. I do not carry these tables around in my head, but I know the size of benefits depends upon the size of income—the lower the income, the higher percentage of benefits. It also depends upon the size of a family.

You have to take into account all of those variables in comparing one illustration with another.

I sat here and suddenly heard the Senator say that under the present law the example used by Senator BELLMON would be 77 percent. It may be, but I do not know the basis for that.

Mr. METZENBAUM. The maximum you can get under the present law with a full size family is 77 percent of your average monthly earnings if you are making $1,000 a month.

Mr. MUSKIE. What is a full size family, 14, 20, 5?

Mr. METZENBAUM. Four. I think the maximum family benefit would be 77 percent.

Mr. MUSKIE. And Senator BELLMON had two parents working in his example.

Mr. BELLMON. That is right.

Mr. METZENBAUM. Therefore, the disability benefit would be something less than 77 percent. I cannot say what it would be.

Mr. MUSKIE. I have a paper which shows that in 1976 the average newly entitled disability beneficiary family got 90 percent of the predisability earnings. That is before the Finance Committee bill, before the Bellmon amendment, before the amendment of the Senator from Ohio. I have not made the analysis that underlies this figure, but as I understand it, the figure is valid.

Mr. METZENBAUM. I have to say I know of no one for whom I have more respect than the distinguished chairman of the Budget Committee.

Mr. MUSKIE. May I say to the Senator, respect for me personally has nothing to do with this figure because I did not generate it and I cannot vouch for it.

Mr. METZENBAUM. I have before me a chart showing that at a $400 average monthly income, it would be 90 percent; at $477 it would be 88 percent; at $1,000 it would be 77 percent; at $1,500 it would be 63 percent; and continuing down.

Mr. MUSKIE. The difference is that the Senator is talking about income at $1,000 a month.

Mr. METZENBAUM. That is correct.

Mr. MUSKIE. This figure represents an average of all beneficiaries. Well, $1,000 is not too high in today's terms.

Mr. METZENBAUM. It is pretty low.

I do not have the figure the Senator referred to. At this point, I have never heard the figure that the average beneficiary under disability insurance gets 90 percent. If I am wrong, I would like to be corrected. But at this moment I do not know that to be the fact and, therefore, I do not want to proceed on that assumption. I do not think it is the fact, but if I am wrong I will be prepared to recognize that fact.

Let me further point out to my friend from Oklahoma that at the very beginning of his remarks he talked about persons who are on SSI who get disability.

I just want to say that as I understand it, that is a totally different program than that with which we are dealing here on the floor of the Senate today.

Mr. MUSKIE. Will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. MUSKIE. I would like to give the source for the figure I gave earlier, which is on pages 38 and 39 of the committee report:

> An analysis by the social security actuaries has indicated: The average replacement ratio of newly entitled disabled workers with median earnings and who have qualifying dependents increased from about 60 percent in 1967 to over 90 percent in 1976.

Mr. METZENBAUM. The Senator is reading from what?

Mr. MUSKIE. The bottom of page 38 and the top of page 39 of the committee report. It is not my figure; it is out of the committee report.

(Mr. MATSUNAGA assumed the chair.)

Mr. METZENBAUM. I am frank to say I recognize the language but I do not know what the language refers to as far as "newly entitled disabled workers with median earnings who have qualifying dependents."

I will accept the language of the report, however. The figures I have, which I am sure come from credible sources, indicate that depending upon what your earnings are, your ratio of benefits goes down to the point so indicated by the figures that I gave previously.

The Senator from Oklahoma talked about the fact that some persons might receive more under disability benefits for not working than for working. I want to point out to him—and I mentioned it in my earlier remarks—that that is in the law as it is at the present time, but the fact is that my amendment would provide a limitation on that and specifically prohibit receiving anything in excess, as disabilty benefits, over and above the average monthly earnings.

The Senator also commented on the fact that the disabled do not have to pay other expenses.

I would like to point out to him that the disabled do have their special kinds of problems. In the average family, if the family goes to work, if everyone leaves the home and both members of the family go to work, they turn down the heat and save some money. They do not have to have anybody staying with the disabled worker, if that worker has to stay at home alone. Those are expenses that must be recognized as a reality of life if they are totally disabled individuals.

Furthermore, I want to point out that there are expenses which have to do with that which are not covered by medicare or medicaid. and the totally disabled worker has that problem to contend with.

The Senator from Oklahoma says that this is not a welfare program, and I could not agree with him more. This is a program that the Congress enacted. They made a contract with the people who paid into the fund. Would anyone realistically suggest that if we bought an insurance policy 5, 10, or 15 years ago, and that insurance policy provided for a certain amount of disability benefits at a certain point in our life if we should become disabled, that under those circumstances the insurance company could cut back the amount of those benefits?

That is what we are talking about doing here. The Finance Committee is talking about cutting them back substantially, $1.5 billion. The Senator from Oklahoma is talking about cutting them $3.5 billion. The Senator from Ohio is attempting to restore $900 million of the $1.5 billion of the cut of the Finance Committee.

There is not any logic, reason, fairness, or equity to say to people, "You have paid in for a number of years and now we are changing the amount of disability benefits for some reasons that have to do with the procedures that the Congress has decided upon."

Once we make a contract and say that we are going to pay a certain amount of dollars, we ought to live up to that contract.

I think in simple terms that is what this issue is all about. It is not a question of whether you believe in welfare or are opposed to welfare. We can all say we would like to get everybody off of welfare. But this is a contractual relationship. This is a relationship where the people have paid their money in and they have a right to expect to be paid when they become totally disabled. That is the issue as I see it which is before the Senate.

I think the Finance Committee bill is bad, very bad. I think the amendment proposed by the Senator from Oklahoma would just exacerbate the problem.

Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, will the Senator from Oklahoma yield me some time?

Mr. BELLMON. Mr. President, I yield as much time as he needs to the Senator from Maine.

Mr. MUSKIE. I thank the Senator.

Mr. President, for the purpose of making clear in the RECORD the purpose of the Finance Committee bill and the Bellmon amendment, I ask unanimous consent that there be printed at this point in the RECORD the lower third of page 38 of the committee report, all of page 39, all of page 40, and the top of page 41 of the committee report.

Mr. METZENBAUM. Not wishing to object, Mr. President, I shall object only for one purpose. I now note that at the top of page 38, it is indicated that the average replacement rate percentage is 58 percent; using the high 5-year indexed earnings in the last 10, it is 49 percent. I have no objection if the entire page 38 is printed.

Mr. MUSKIE. I have no objection to the entire page being printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 15.—DI REPLACEMENT RATES COMPUTED FROM 2 DIFFERENT MEASURES OF DI DISABILITY EARNINGS

Replacement rates [2] (1979 PIA) levels	Awards at each level of earnings replacement [1]			
	Using AIME		Using high 5 yr of indexed earnings in last 10	
	Number of cases	Percent of total	Number of cases	Percent of total
Under 30 percent	0	0	268	3
30 to 39 percent	79	1	2,930	31
40 to 49 percent	3,669	38	2,168	23
50 to 59 percent	1,456	15	1,184	12
60 to 69 percent	947	10	1,353	14
70 to 79 percent	1,215	13	771	8
80 to 89 percent	1,477	15	526	5
90 to 99 percent	181	2	148	2
100 percent and over	561	6	237	2
Total sample	9,585	100	9,585	100
Average replacement rate (percent)	58		49	

[1] These awards include both individual and family benefits where applicable. The actual awards were made before a "decoupled" system was put into effect. However, the awards were recomputed for sample purposes as if a decoupled system existed to give some sense of the longer-range direction of DI replacement rates.

[2] Represents replacement of gross earnings.

Both approaches to measuring replacement—i.e., either long or recent periods of a worker's earnings history—show that there are a substantial number of DI awards which by themselves result in replacement rates in excess of predisability earnings. Using 80 percent of gross predisability earnings as an approximation of predisability disposable earnings, about 23 percent of the awards in the sample were above that level using AIME as the base period for measurement, and approximately 10 percent of the awards in the sample were above that level using the high 5 years of indexed earnings during the 10-year period prior to the onset of disability as the base period for measurement. Approximately two-thirds of these cases involved the payment of dependents benefits in addition to those of the worker.

Actuarial studies in both the public and private sector have indicated that high replacement rates may constitute an incentive for impaired workers to attempt to join the benefit rolls, and a disincentive for disabled beneficiaries to attempt rehabilitation or return to the work force. An analysis by the social security actuaries has indicated:

"The average replacement ratio of newly entitled disabled workers with median earnings and who have qualifying dependents increased from about 60 percent in 1967 to over 90 percent in 1976, an increase of about 50 percent. During this time the gross recovery rate decreased to only one-half of what it was in 1967. High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial work period provision has been largely negated by the prospect of losing the high benefits."

("Experience of Disabled Workers Benefits Under OASDI, 1972-1976," actuarial study No. 75, June 1978.)

An actuarial consultant's report to the Committee on Ways and Means also concludes:

"* * * disability income dollars are, in general, much more valuable and have much more purchasing power than earned dollars. The DI benefits are fully tax exempt, as are insured benefits except for employer provided benefits in excess of $100 per week. For a worker with a spouse and a child paying an average State income tax, 50 percent of salary in the from of disability benefits may well equal 65 percent or more of gross earnings after tax. In addition, the disabled individual is relieved of many expenses incidental to employment such as travel, lunches, special clothing, union or professional dues, and the like."

It is a cause for deep concern that gross ratios of 0.600 or more apply to all young childless workers at median or lower salaries and to nearly all workers with a spouse and minor child for earnings up to the earnings base. In other words, all workers entitled to maximum family benefits are overinsured except older workers whose earnings approach the earnings base, middle-aged workers who earn not more than the earnings base, and young workers except those earning substantially more than the earnings base.

Although these excessive replacement ratios have not been in effect long enough to have been fully reflected in the disability experience, overly liberal benefits may have played some part in the 47 percent increase, between 1968 and 1974, in the average rate of becoming disabled. Other than the indexing provisions, statutory changes during this period could have had no great effect. There is no evidence that the health of the nation has deteriorated. Rising unemployment has clearly been a factor, but the increasing attractiveness of the benefits must also be an important influence.

(U.S. Congress, House, Subcommittee on Social Security of the Committee on Ways and Means, Report of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance, 94th Congress, 2d Session, 1976.)

Testimony heard by the Finance Committee from a private actuary on behalf of a number of insurance companies includes similar observations. This actuary states the following about private disability insurance experience:

"* * * claim costs increase dramatically when replacement ratios exceed 70 percent of gross earnings, and are unsatisfactory when replacement ratios exceed 60 percent of gross earnings. . . . Expected claims is the level of claim costs that is assumed in determining premiums, so a ratio of 100 percent would be what a company would expect to achieve when it sets rates. . . . large exposures show claims at 87 percent of expected when the replacement ratio was 50 percent, 93 percent of expected when the replacement ratio was 50 percent to 60 percent, 106 percent when the replacement ratio was between 60 percent and 70 percent, and a jump in the ratio of actual to expected claims of 219 percent—more than double what the premium allowed—when the replacement ratio exceeded 70 percent of gross earnings."

(U.S. Congress, Senate, Committee on Finance, testimony of Gerald S. Parker on H.R. 3236, Social Security Disability Legislation, October 10, 1979.)

Analysis by the Congressional Budget Office further indicates that it is not correct to assume that a typical disabled worker family is dependent entirely or almost entirely on social security benefits. Disabled workers in families with children derive on average only about 40 percent of their total cash income from social security benefits. The analysis indicates that very few worker families have more than a 10 percent reduction in disposable income as a result of disability.

In summary, this analysis shows that the combined impact of high social security disability insurance replacement rates and substantial other sources of family income is to insulate disabled worker families, as a group, from any major reduction in income as a result of their disability.

Committee bill.—The committee is concerned about the impact these high benefit levels and replacement rates have had on the growth of the program, in that they may have caused both incentives for impaired workers to stop working and apply for benefits, and disincentives for DI beneficiaries to leave the benefit rolls. The Committee further is concerned about the inappropriateness of having situations where benefits exceed predisability earnings in a program intended primarily to replace lost earnings.

The Committee bill would address these concerns through a provision which limits total DI family benefits to an amount equal to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. Under the provision no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals becoming entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978. The limitation would not apply to individuals who join the benefit roll after the effective date of the provision who were on the rolls (or had a period of disability) at another time prior to calendar year 1980. This will preclude the new limit on family benefits from applying to anyone who was on the roll in the past. Approximately 120,000 family units, encompassing 355,000 beneficiaries, will be affected by the limitation in the first full year after enactment.

The Secretary would be required to report to the Congress by January 1, 1985 on the effect of the limitation on benefits and of other provisions of the bill.

The committee further is concerned about situations where the payment of disability benefits to an individual from a number of public disability pension or like systems results in aggregate benefits which exceed the individuals' predisability earnings. While coordination exists between the DI program and State worker's compensation programs for the purpose of keeping the two forms of disability benefits at an aggregate level no higher than the worker's net predisability earnings, there are numerous other Federal and State programs providing disability benefits or compensation which are not coordinated at all with the DI program. The General Accounting Office has already undertaken a study of the relationship between social security and workers' compensation under the existing provision. The Committee requests the General Accounting Office to also study the prevalence of multiple receipt of disability benefits from DI and other programs (in addition to worker's compensation), as well as various approaches to better coordinate the overall benefits provided to an individual for the purpose of precluding them from exceeding the worker's predisability earnings. This report and the recommendations of the General Accounting Office will be the subject of hearings which the committee intends shall be held next year by its subcommittee on social security.

Mr. MUSKIE. Mr. President, I find myself at a disadvantage by not being familiar, in a statistical way, with the very complicated problem of analyzing the benefit structure and the benefit distribution, but a point very clearly stated over and over again in those pages of the report is found in these words.

Actuarial studies in both the public and private sector have indicated that high replacement rates may constitute an incentive for impaired workers to attempt to join the benefit rolls, and a disincentive for disabled beneficiaries to attempt rehabilitation or return to the work force.

If that is the effect of the present benefit levels of the program, then, clearly, we have a program that increases costs to the disadvantage of the taxpayers and also reduces resources available for other worthwhile purposes. So we have to look at the effectiveness and efficiency of many of these programs.

Mr. President, I support Senator BELLMON's amendment to Senator METZENBAUM's amendment.

A major purpose of the Finance Committee bill is to limit social security disability benefits to assure that a family will not have higher income than before the worker became disabled. The effect of the amendment offered by Senator METZENBAUM is to defeat this purpose of the bill and to virtually wipe out the savings that the bill achieves.

The Senate has already adopted the amendment proposed by Senator BAYH to eliminate the waiting period for the terminally ill. If the Metzenbaum amendment is also adopted, the bill will be changed from one saving $0.9 billion over the first 5 years to a measure costing $0.6 billion over the 5-year period.

The Bellmon amendment would accomplish an important objective—reducing the incentives for people to file for disability benefits and to stay on the benefit rolls. The present high level of benefits acts as a work disincentive—one-fifth of disability beneficiary families get benefits that exceed 80 percent of the worker's predisability earnings. Also, disability benefits are tax free, as the Senator from Oklahoma has emphasized, and disabled beneficiaries get medicare protection after 2 years, creating a further disincentive to work.

It is interesting to know what average medicare benefits amount to. In 1979, actual average medicare benefits for the disabled were $1,346 per year; in 1980, an estimated $1,538; in 1981, an estimated $1,749.

I have no figures estimating the value of the tax-free nature of these benefits but obviously, this ought to be taken into consideration. Obviously, on the record, there is now some work disincentive. There is no disagreement here. Even Senator METZENBAUM, in his setting his benefits at no higher than 100 percent of predisability earnings, acknowledges that anything above that figure operates as a disincentive. So what operates as a disincentive? Or what is the appropriate level of disability benefits—when added to the tax-free advantages, when added to the medicare advantages and other benefits, whatever they may be? We have to take all of this into account in making a judgment as to whether or not we have created work disincentives that add to the cost of the disability program.

The level of disability benefits has been rising in recent years. In 1967, on the average, as I have said already, newly entitled disability beneficiaries with families got benefits equal to 60 percent of their predisability earnings. That percentage grew to 90 percent by 1976.

Mr. President, the President has been criticized for not balancing his fiscal year 1980 budget. He was criticized this morning in the Budget Committee hearings and has been criticized in the press and by others. But responsibility for budget balancing, Mr. President, is not the President's alone. We must demonstrate by our actions today that we intend to move toward bringing this budget into balance.

We have had two votes now and are about to have a third inside of a week which show the same trend—demonstrating the attractiveness of converting social programs from spending programs under control of the Congress to entitlement programs that are beyond our control unless we change the law.

That is the reason why every chart—in the newspapers analyzing the budget, in the budget documents, and in the magazines next week displaying charts showing where budget growth has taken place—will show the growth has taken place in the entitlement field.

The President's representatives this morning were specifically criticized for not offering proposals to reduce uncontrollables by controlling entitlements. The administration said, "Well, quite frankly, we see no disposition on the part of Congress to control entitlements." We in Congress and the Budget Committee saw it last year. We adopted a reconciliation instruction in this Chamber, which was directed in part at achieving savings in entitlement programs. It is dead—dead in both Houses, getting nowhere.

A number of Senators who have been voting for these entitlement programs in the last 2 weeks have been coming before the Budget Committee in support of budget-balancing amendments to demonstrate their commitment to balanced budgets. Mr. President, how are we going to balance budgets when these entitlement programs are described as contracts with the people, as sacrosanct and, once enacted, not to be tampered with? Mr. President, there is no way of doing it.

According to the President's Budget, uncontrollable programs will increase, in 2 years, from a total cost of $366.1 billion in fiscal year 1979—74.2 percent of the budget—to $471.6 billion in fiscal year 1981—76.6 percent of the budget.

If that trend continues, they will amount to over 80 percent of the budget in this decade, and early in this decade. Then I am asked by Senators to sit there, presiding over these balanced budget amendments, and to take seriously their assertions that those amendments would help us control these programs. Nothing could be more ridiculous in the face of the record that this Congress has set in the last 2 years.

If that is the will of the Congress, if that is the will of the Senate. I accept it. But I think it is time that the American people, through their press, through our actions, at least see where the problem is.

We all get letters and respond to them in a reassuring way—"Balance the budget." "Oh, yes, we will." Then we all find a way to blame something; a lot of us have been blaming uncontrollables.

I can see the letters going out now. I heard the chairman of the Appropriations Committee say that we cannot touch entitlements. They are contracts, matters of law. So we blame entitlements, but refuse to do anything about them.

Mr. President, it is for that reason, more than this particular amendment—although I think the merits of this amendment are very clear—that I am making this statement. The Senate must confront that issue: Once we have written entitlements in the law, are they forever sacrosanct, beyond any claim to budget perfections, ever immune from budget balancing? Are they priorities ever set in concrete, never to yield to programs better suited to meet the problems of those who are its beneficiaries?

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

The Senator from Ohio has 16 minutes left.

Mr. METZENBAUM. Mr. President, I am frank to say to the Senate that when my good friend, the Senator from Maine, referred to a paragraph on page 39, saying: "The average replacement ratio of newly entitled disabled workers with median earnings and who have qualifying dependents increased from about 60 percent in 1967 to over 90 percent in 1976, an increase of about 50 percent," the Senator from Ohio was totally amazed by those figures and at this moment cannot fully understand them, because when we look at page 38 of that same report and get the breakdown of what the actual benefits are that are being paid, we find totally different figures. They are not close, just totally different figures.

The chart is called "Disability Insurance Replacement Rates Computed From Two Different Measures of DR Disability Earnings," and they use two different charts.

The first one uses the average indexed monthly earnings, and they talk about the replacement rates, and they talk about the number of cases and the percentage of the total.

Now, the replacement rates, meaning what percentage of the gross earnings is received by the disabled, we find 39 percent, or below the 49 percent level.

In other words, 39 percent of all the people receiving disability insurance are receiving less than 49 percent of their total earnings, of their average monthly earnings.

If we go over and take the highest 5 years of their indexed earnings in the last 10, we find that 57 percent of the total are receiving less than 49 percent of their disability insurance.

If we move that figure on up and go from 50 percent to 59 percent of their disability insurance, we add another 15 percent of the total.

If we go from 60 to 69 percent, we add another 10 percent. If we go from 70 to 79 percent, we find another 13 percent.

We have a total of 92 percent receiving less than 89 percent, but the great majority of those are at the lower portion.

If we look at the figures, using the highest 5 years of the indexed earnings in the last 10, we will find 57 percent, as I previously mentioned, are receiving less than 49 percent of their indexed earnings averaged out on a basis of the highest 5 years of the last 10.

Then if we go to the 59 percent of disability insurance figures, we add another 12 percent, another 14 percent if we go to 69 percent, another 8 percent if we go to 79 percent, or 91 percent of the total receipts, something less than 79 percent of their average earnings based on the top 5 years of the last 10.

When we look at the average, the average replacement rate for the average indexed monthly earnings is 58 percent, and if we use the highest 5 year basis, it is 49 percent.

Mr. President, I think it is easy to be misleading on an issue of this kind. I am frank to say that when I saw the 90 percent figure on the average, I did not know what it meant, and I still do not know what it means.

I do know what the specific breakdown means. I do know what the figures are that have heretofore been submitted. That is that people on disability are receiving but a shadow of what they were receiving if they worked.

There is no incentive to be disabled. Anyone who comes to the Senate and suggests there is a great incentive to lie on one's back and to be unable to do anything and not go back to work is not reporting the facts to the Senate in accordance with the reality of what is taking place.

We made a commitment, a commitment to the people who were paying into the disability insurance fund, that the levels would be at a certain point, and almost with no exception the Congresses in the past have seen fit to increase those levels, not to decrease them.

This is the first impact. This is the first invasion of the disability insurance funds.

I believe we have a right to be proud of the fact that there is that much money still in the disability funds that the President is talking about borrowing from them. But I do not think we ought to be finding any argument to cutting an additional $2 billion from those disability benefits in addition to the $1.5 billion the Senate Finance Committee is wanting to take away from them.

I hope the Senate sees fit to reject the Bellmon amendment. I hope the Senate sees fit to keep the cap at the present level, not to increase it, but to keep it at the present level, with the proviso that in no instance shall any particular individual receive in excess of 100 percent of the average of monthly earnings, and that would only be applicable in the extremely low levels of people earning less than $300 to $400 a month.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. Mr. President, I yield such time as I may need on the bill.

Mr. President, this is a very complex and a very controversial issue. It is difficult to understand without understanding every formula and every table involved.

The House sent to the Finance Committee a bill on this issue that would save over a 5-year period approximately $2.664 billion.

The Senate Finance Committee, after mature deliberation, devised a bill that was a give and take compromise, and over a 5-year period the Senate Finance Committee would save approximately $914 million.

The amendment offered by the distinguished Senator from Ohio would negate virtually, if not all, the savings of the Senate Finance Committee, reducing it to virtually zero.

The Bellmon amendment, if agreed to, would save over a 5-year period approximately $3.644 billion.

We think the result of the Senate Finance Committee is a fair compromise. I hope the Senate will reject the amendment of the distinguished Senator from Oklahoma, reject the amendment proposed by the distinguished Senator from Ohio, and approve the bill as submitted by the Senate Finance Committee.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma to the amendment of the Senator from Ohio. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted and who wishes to do so?

The result was announced—yeas 24, nays 70, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—24

Armstrong	Helms	Schweiker
Bellmon	Hollings	Simpson
Byrd, Harry F., Jr.	Humphrey	Stevens
Exon	Laxalt	Thurmond
Garn	Lugar	Tower
Hart	McClure	Wallop
Hatch	Muskie	Zorinsky
Hayakawa	Proxmire	
	Schmitt	

NAYS—70

Baucus	Eagleton	Nelson
Bayh	Ford	Nunn
Bentsen	Glenn	Packwood
Biden	Hatfield	Pell
Boren	Heflin	Percy
Boschwitz	Heinz	Pressler
Bradley	Huddleston	Pryor
Bumpers	Inouye	Randolph
Burdick	Jackson	Ribicoff
Byrd, Robert C.	Javits	Riegle
Cannon	Jepsen	Roth
Chafee	Johnston	Sarbanes
Chiles	Kassebaum	Sasser
Church	Leahy	Stafford
Cochran	Levin	Stevenson
Cohen	Long	Stewart
Cranston	Magnuson	Stone
Culver	Mathias	Talmadge
Danforth	Matsunaga	Tsongas
DeConcini	McGovern	Warner
Dole	Melcher	Weicker
Domenici	Metzenbaum	Williams
Durenberger	Morgan	
Durkin	Moynihan	

NOT VOTING—6

Baker	Gravel	Stennis
Goldwater	Kennedy	Young

So Mr. BELLMON's amendment (UP No. 936) to Mr. METZENBAUM's amendment (UP No. 935) was rejected.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

● Mr. CHILES. Mr. President, I have given a great deal of thought to the various amendments to change the provisions of this bill.

Early last year, we faced the need to make some reforms in the social security program. That is never a popular thing to do because it involves changing the way we are doing things so we can improve the system. Improvements are definitely needed. Inflation is out of hand and is hitting the fixed income population—primarily the elderly—the hardest. The long-range solvency of social security may be threatened.

As we look at the total social security and disability insurance program, we see how population and economic trends have changed in the 45 years since the program began. It is time we dropped outmoded provisions to insure the long-range stability of the social security system.

Social security started as a social insurance program of basic benefits for Americans in their old age and survivors of deceased workers. Over the years we have added very worthwhile income protection for disabled workers and health insurance for the aged and disabled. We have periodically increased benefits and added cost-of-living increases. Some of the benefits we have added—such as student financial aid for survivors who attend postsecondary schools are not need-based and duplicate other parts of the budget, where we are providing billions in grants, loans, and work-study assistance. Other provisions such as allowing certain disabled workers to receive benefits of more than 90 percent or 100 percent of their average earnings or letting younger workers drop a much higher proportion of earnings in computing their benefits, create an unintended "windfall" and an inequity in the program.

The Finance Committee bill provides an important work incentive by extending medicare benefits to disabled workers who return to the job, allowing deductions of extraordinary work-related expenses and eliminating the waiting period for those who are not successful in their work attempt and must return to the rolls.

These provisions are sound, beneficial, and like a lot of good ideas, they cost money. On the other hand, the steady increase in benefits under the disability program is creating a disincentive, as well as unjustified cost to the program. We have seen applications and awards of disability grow at an alarming rate in the last 10 years, and we have seen an even more alarming drop in the number of individuals on disability returning to work. This trend is particularly evident during recession periods.

I believe a strong, secure social security program is based on an equitable structure of basic benefits to the elderly, survivors, and the disabled. If a retiree has only social security to live on and is in a poverty situation, he must seek supplemental assistance in the form of food stamps and other aid from programs funded by general revenues. I believe that it is only fair that we not drain the social security trust funds by providing benefits of a welfare nature when there are programs funded by general revenues to which those who need more help can apply.

The bill would not cap the benefits or change the drop years for individuals already on disability, but the work incentives would be available for all. I have heard from a number of older Americans who are concerned about the implications of any kind of benefit cap or computation change for newly disabled workers, even though the elderly would not be directly affected. I have heard from many, many more who are concerned about the impact inflation is having on their fixed incomes, who call for the budget to be balanced, and who are vitally concerned about the long-term stability of the social security trust funds. Most elderly folks I talk to understand basic economics—that you do not get something for nothing. When you increase benefits, you pay one way or the other—either in higher taxes or a bigger deficit and inflation.

As chairman of the Special Committee on Aging. I firmly believe that we must offer older Americans and those who are permanently disabled a solid income of basic benefits. But we cannot improve the system unless we make some reforms that will be in tune with people's concerns and the times.●

UP AMENDMENT NO. 935

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Ohio. The yeas and nays having been previously ordered, the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators wishing to vote?

The result was announced—yeas 47, nays 47, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—47

Bayh	Heinz	Pell
Biden	Huddleston	Pressler
Bradley	Inouye	Pryor
Bumpers	Jackson	Randolph
Burdick	Javits	Ribicoff
Byrd, Robert C.	Leahy	Riegle
Church	Levin	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Stafford
DeConcini	Matsunaga	Stevenson
Durkin	McGovern	Stewart
Eagleton	Melcher	Stone
Ford	Metzenbaum	Tsongas
Glenn	Morgan	Weicker
Hatfield	Moynihan	Williams
Hefiin	Nelson	

NAYS—47

Armstrong	Durenberger	Muskie
Baucus	Exon	Nunn
Bellmon	Garn	Packwood
Bentsen	Hart	Percy
Boren	Hatch	Proxmire
Boschwitz	Hayakawa	Roth
Byrd, Harry F., Jr.	Helms	Schmitt
	Hollings	Schweiker
Cannon	Humphrey	Simpson
Chafee	Jepsen	Stevens
Chiles	Johnston	Talmadge
Cochran	Kassebaum	Thurmond
Cohen	Laxalt	Tower
Danforth	Long	Wallop
Dole	Lugar	Warner
Domenici	McClure	Zorinsky

NOT VOTING—6

Baker	Gravel	Stennis
Goldwater	Kennedy	Young

So Mr. METZENBAUM's amendment (UP No. 935) was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. Mr. President, point of order. The Senator has to vote with the prevailing side in order to move to reconsider.

The PRESIDING OFFICER. The Senator from Louisiana is correct. The point of order is well taken.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Wisconsin (Mr. NELSON).

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, have I been recognized?

The PRESIDING OFFICER. I did indeed recognize the Senator, but there was a prior matter I had to dispose of first.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize the Senator from New York? He has been seeking recognition.

The PRESIDING OFFICER. Does the Senate wish to set aside this amendment further? The Nelson amendment is the pending matter.

Mr. JAVITS. Mr. President, I do not know what the majority leader's desire is. I have an amendment.

Mr. LONG. Mr. President, there is a pending amendment. Point of order, Mr. President. Is not the Nelson amendment pending?

AMENDMENT NO. 745

The PRESIDING OFFICER. The question now recurs on the Nelson amendment. There are 52 minutes remaining on the Nelson amendment.

Mr. LONG. Mr. President, at the time the Nelson amendment was called up, I was under the impression the administration did not favor the Nelson amendment.

I now have a letter from the Assistant Secretary for Legislation of HEW. The letter states:

With regard to HEW's current position on Senator Nelson's revised amendment to H.R. 3236 designed to protect state employees, the Department of HEW can support the concept of this amendment. There are still some limited technical questions that remain unresolved, however, if the Senate adopts the amendment we would submit those at the time of a Senate-House Conference.

In view of the fact the administration would now be willing to accept the amendment, I am willing to accept the Nelson amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. DOLE. The Senator from Kansas is aware of the letter. I have discussed it with Senator NELSON. We are prepared to accept the amendment, and that will take care of it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. Mr. President, I am willing to yield back the remainder of my time.

● Mr. HUDDLESTON. Mr. President, I commend my distinguished colleague, the Senator from Wisconsin, for his efforts in support of employees of State disability determination units, and I am pleased to join him in offering this amendment.

Mr. President, since May of this year, I have been concerned about the fate of State career employees in disability determination units should Federal takeover occur. I believe that without adequate job security provided for State employees, orderly transition from State to Federal control would be next to impossible. Thousands of disability applicants would unfairly bear the burden of an unorganized disability operation through program disruption and delays in claims adjudication. Still thousands more State employees would be left not knowing whether the new Federal operation of the program would provide jobs for them or simply ignore what amounts to, in some cases, an entire career of service to the disability program.

The amendment that I join Senator NELSON in offering today would go a long way in guarding the jobs of some 9,000

experienced and faithful State disability examiners in this country. Our amendment would, in the event of a Federal takeover of a State disability unit, provide that the administrating agency give preference to these qualified State disability examiners in filling Federal positions. It would insure the Federal Government's reliance upon and utilization of those individuals representing our greatest reservoir of talent in the disability program.

With the tightening of Federal controls on State disability operations provided for in H.R. 3236, it is imperative that there be a balancing effect for State employees if a State can no longer manage the program under Federal guidelines. Any legislation which increases the likelihood of a Federal takeover of the disability insurance program should, in turn, provide strong job protection rights for State employees. We must protect these employees who stand to lose from the increased Federal authority and decreased State authority outlined in this bill.

I realize that it would not be reasonable, Mr. President, to guarantee a job to every State employee should a disability program federalize in their State. We are not in a position to anticipate what Federal job availability will be at such a time, and even if we were, each situation in each State will demand a slightly different approach. What I am proposing, however, is that we recognize the legitimate concerns of thousands of State employees, and attempt to deal constructively with a prospective nationwide problem before it occurs.

In my contact with Kentucky State disability examiners, several of whom are on the national board of the National Association of Disability Examiners (NADE), I have developed a great sympathy for and commitment to their cause. I urge my colleagues to pay heed to the unfortunate experience of the State disability determination unit in Senator NELSON's home State of Wisconsin. Even aside from the loss of 161 skilled disability examiners employed in his State, the disruption of over 35,000 Wisconsin claimants more than sufficiently supports our argument that a detailed plan for system takeover from State to Federal is imperative. I urge my colleagues to join us in this effort by supporting this amendment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Wisconsin (Mr. NELSON).

The amendment, as modified, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, there will be no more rollcall votes tonight. I understand Mr. BAUCUS has an amendment he wishes to call up, which may be acceptable. Mr. JAVITS has an amendment he would like to call up and we can make it the pending question, perhaps, for tomorrow. Mr. CHILES has a resolution on a matter that he will call up for a voice vote. I think it will be unanimously voted up. Mr. BAUCUS has an amendment.

I understand from the manager and ranking minority member that the Senate might be in a position to resume consideration of this bill at 10 a.m. tomorrow.

Mr. DOLE. Yes.

Mr. FORD. Will the majority leader yield?

The PRESIDING OFFICER. The Chair recognizes the Senator from New York (Mr. JAVITS).

UP AMENDMENT NO. 937

(Subsequently numbered Amendment No. 1046)

(Purpose: Relating to limitation on total family benefits in disability cases)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 937.

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

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

The amendment is as follows:

Beginning on page 33, line 15, strike out all through page 34, line 11, and insert in lieu thereof the following:

"'(6)(A) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be reduced or further reduced (before the application of section 224) as necessary so as not to exceed 100 percent of such individual's primary insurance amount, or (if greater) the sum of the following:

"'(i) 85 percent of such individual's average indexed monthly earnings to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B), plus

"'(ii) 70 percent of such individual's average indexed monthly earnings to the extent that such earnings exceed the amount established with respect to clause (i) but do not exceed the amount established with respect to this clause by subparagraph (B), plus

"'(iii) 38 percent of such individual's average indexed monthly earnings to the extent that such earnings exceed the amount established with respect to clause (ii) but do not exceed the amount established with respect to this clause by subparagraph (B), plus

"'(iv) 24 percent of such individual's average indexed monthly earnings to the extent that such earnings exceed the amount established with respect to clause (iii) by subparagraph (B).

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

"'(B)(i) For individuals who initially became eligible for disability insurance benefits in the calendar year 1979, the amounts established with respect to clauses (i), (ii), and (iii) of subparagraph (A) shall be $493, $737, and $1,085, respectively.

"'(ii) For individuals who initially become eligible for disability insurance 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 clause (i) of this subparagraph 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).

"'(iii) For purposes of this paragraph, eligibility of an individual for disability insurance benefits shall be determined under sections 215(a)(3)(B) and 215(a)(2)(A) as applied for this purpose.".

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

The Senator from New York.

Mr. JAVITS. Mr. President, my amendment is intended to deal with what I consider to be a real inequity in the bill. The committee bill hits unusually hard those individuals with AIME levels of between $700 to $1,000 and reduces their income replacement rates twice as much as the rates on all other categories except for the very low-income people, who would get 90 percent, 88 percent, and 85 percent of their AIME under the bill.

I do not think that is fair, Mr. President, and I shall debate that tomorrow. I might say, so we have a concept of the figures, that over the 5-year period which has been the criterion here, the people in these categories, if they were restored to the same kind of proportion which the other income categories have in this bill other than the very lowest, it would cost $153 million over a 5-year period.

It seems to me, Mr. President, that I have not heard and I have not seen any justification that these middle-income recipients of disability should take twice the beating everybody else does. Therefore, Mr. President, I think that ought to be corrected. The cost is not all that high, especially in view of the fact that Members have already indicated a sympathy for doing something about the very heavy cuts in this bill. It seems to me that this is an inequity that richly deserves correction.

Mr. President, I ask unanimous consent that my prepared statement as well as a table which will show clearly that this inequity is being perpetrated, may be printed in the RECORD at this point.

There being no objection, the statement and table were ordered to be printed in the RECORD, as follows:

STATEMENT

Mr. President, a majority of my colleagues did not agree with the Metzenbaum amendment. Apparently, concerns about balancing the budget and assuring that post-disability benefits do not exceed pre-disability earnings carried the day. In an attempt to accommodate the financial concerns of my colleagues and yet remedy a clear injustice in the Committee bill, I am offering an amendment which would partially restore the maximum family benefits of lower-middle income beneficiaries whose family benefits would be disproportionately reduced without adequate justification. My amendment would raise the family cap in the Committee bill for beneficiaries with average prior earnings (AIME) ranging from approximately $600 per month to $1,000 per month so that the reduction in the replacement percentage of

their average prior earnings (AIME) is roughly proportional to such reductions for most other income groups.

For example, for a worker who had average prior earnings (AIME) of $800 per month and who became disabled and entitled to benefits in 1980, the Committee bill would reduce the present maximum family benefit of $685.50/month to $589.80/month. This represents a 12 percent reduction in the replacement rate for the average prior earnings (AIME), namely, from 86 percent of the AIME to 74 percent of the AIME. Such a percentage reduction is twice that of a beneficiary who had average prior earnings (AIME) of $600/month or $1,200/month. I do not think that such a severe, disproportionate reduction for this AIME group is justifiable. Mr. President, I have included in the Record a table prepared by the Social Security Administration's Office of the Actuary showing the maximum family benefits and related replacement ratios for differing AIME levels under present law, the Committee bill, and my amendment.

The Office of the Actuary has also prepared estimates of the amount of reduction in DI benefit payments that would result from the cap in the Committee bill and the cap in my proposal. The short-term numbers are as follows:

ESTIMATED AMOUNT OF REDUCTION IN DI BENEFIT PAYMENTS

[In millions]

Fiscal year	Cap in Finance Committee bill	Cap in Javits' amendment	Difference
1980	$25	$21	$4
1981	97	81	16
1982	175	146	29
1983	262	217	45
1984	350	291	59
Total	909	756	153

Over the next 75 years, average expenditures, as a percentage of taxable payroll, would be reduced by an estimated .06 percent under the Committee bill and by .05 percent under my proposal.

My amendment would raise the maximum family benefit for beneficiaries who became disabled in 1979 and who had average prior earnings (AIME) around the average wage figure of $882/month and would yet retain the Committee-proposed reductions for other AIME groups by means of the following cap:

Total Family benefits=Sum of: 85 percent of the first $493 of the worker's average indexed monthly earnings (AIME) plus 70 percent of AIME in excess of $493 but not in excess of $737 plus 38 percent of AIME in excess of $737 but not in excess of $1,085 plus 24 percent of AIME in excess of $1,085.

As under the Committee bill, total family benefits would not be limited to an amount less than the worker's primary insurance amount. I should add that the bend points in the above formula ($493, 737, 1,085) would be indexed by average wages to obtain the corresponding bend points for workers becoming disabled in any year after 1979. The 1980 bend points would be $532, $796, and $1,171. The formula I propose can be viewed as a modification of the Committee's 85 percent AIME/160 percent PIA formula through the striking of the 160 percent PIA factor and the replacing of the 85 percent AIME figure with four AIME percentages starting at 85 percent and declining as the corresponding AIME dollar levels increase.

Mr. President, my amendment would partially restore disproportunately large and injustifiable reductions in the maximum family benefits for average income beneficiaries and yet not make the bill unacceptable to those who are concerned about cutting costs. The amendment I propose is a compromise between those who want to reduce benefits and those who do not. I commend my proposal to this Body for close consideration and approval.

MAXIMUM FAMILY BENEFIT AMOUNT (FBA) FOR WORKERS WHO BECOME DISABLED AND ENTITLED TO BENEFITS IN 1980, UNDER PRESENT LAW AND UNDER 2 ALTERNATIVE PROPOSALS TO REDUCE MAXIMUM FAMILY BENEFITS, FOR ILLUSTRATIVE AMOUNTS OF AVERAGE INDEXED MONTHLY EARNINGS (AIME)

AIME	FBA under present law		FBA under Senate Finance Committee bill[1]			FBA under proposed alternative[2]		
	Amount	As percent of AIME	Amount	As percent of AIME	Difference from present law (percent)[3]	Amount	As percent of AIME	Difference from present law (percent)[3]
$135	$183.00	136	$122.00	90	45	$122.00	90	45
$200	264.90	132	176.60	88	44	176.60	88	44
$300	312.90	104	255.00	85	19	255.00	85	19
$400	360.90	90	340.00	85	5	340.00	85	5
$477[4]	418.80	88	405.50	85	3	405.50	85	3
$500	439.00	88	425.00	85	3	425.00	85	3
$600	526.00	88	487.40	81	6	499.80	83	4
$700	613.00	88	538.60	77	11	569.80	81	6
$800	685.50	86	589.80	74	12	638.60	80	6
$882[5]	720.60	82	631.70	72	10	669.70	76	6
$900	728.30	81	641.00	71	10	676.60	75	6
$1,000	771.20	77	692.20	69	8	714.60	71	6
$1,100	814.10	74	743.40	68	6	752.60	68	6
$1,200	860.40	72	786.60	66	6	786.50	66	6
$1,300	886.60	68	810.60	62	6	810.50	62	6
$1,400	912.90	65	834.60	60	6	834.50	60	6
$1,500	939.10	63	858.60	57	5	858.50	57	5
$1,600	965.40	60	882.60	55	5	882.50	55	5
$1,700	991.60	58	906.60	53	5	906.50	53	5

[1] Total family benefits would be limited to the smaller of 85 percent of the worker's AIME (or 100 percent of his primary insurance amount (PIA), if larger) or 160 percent of the worker's PIA.

[2] See covering memorandum for description of proposal.

[3] Represents difference in FBA under present law and under the proposal, as a percent of AIME, and therefore may not equal the difference of the percentages because of rounding.

[4] Represents estimated AIME for worker with wages equal to the Federal minimum wage in each year through 1979.

[5] Represents estimated AIME for worker with wages equal to the average wage in each year through 1979.

Note: The information in the above table is based on the average wage amount that has been established for 1978 and the benefit formulas that have been determined for 1980. The effect of the June 1980 benefit increase is excluded.

Source: Social Security Administration, Office of the Actuary, Dec. 12, 1979.

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. I am willing to have the yeas and nays on tomorrow.

Mr. JAVITS. I realize that.

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

The yeas and nays were ordered.

Mr. JAVITS. I thank the Chair.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I do not believe the amendment should be agreed to.

The committee bill and the Javits amendment both have the effect of limiting family disability benefits as compared with present law. Both would have approximately the same impact at lower benefit levels and at higher benefit levels. However, in the middle range of benefit levels, the Javits amendment would reduce benefits by a somewhat smaller amount than the committee bill. For example, at an $880 AIME level, the present law benefit is about $720. The House bill would reduce this to $595, the committee bill would reduce it to $630, and the Javits amendment would reduce it to $670. The net impact of the Javits amendment would be to reduce the savings of the committee bill by $4 million in fiscal year 1980 and by a total of $153 million over the 5-year period 1980–84.

Mr. President, with regard to this proposal, HEW has submitted this statement:

HEW opposed this proposal and favors the House provision. The proposal is more liberal than either the House or the Senate Finance Committee caps on these benefits, and compared to the House cap it would cut the first 5-year savings nearly in half. Furthermore, a cap at middle and upper levels that is based on a uniform percentage of primary insurance amount, that is, 150 percent of the primary insurance amount, as in the House bill, does not seem unreasonable and would enhance public understanding of the cap.

That is the position, Mr. President, of the Department of HEW, which really would prefer the House position, which is an even more strict limitation than the position of the Senate Finance Committee.

Mr. President, I believe the committee has been generous and has gone beyond what the administration has recommended. I believe we have done enough for people in the middle-income area in this instance, and I hope the committee

position will be sustained. We will have the opportunity to debate this tomorrow.

Mr. President, in view of the fact that we will take up this matter tomorrow, I ask unanimous consent that this matter be temporarily laid aside and that we proceed with it tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 938

(Purpose: To provide for voluntary certification of medicare supplemental health insurance policies)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 938.

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

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

The amendment is as follows:

Strike out section 508 of the bill and insert in lieu thereof the following:

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

SEC. 508. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

"SEC. 1882. (a) The Secretary shall establish a procedure whereby medicare supplemental policies (as defined in subsection (g)) may be certified by the Secretary as meeting minimum standards set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards set forth in subsection (c). Such certification shall remain in effect, if the insurer files a statement with the Secretary no later than December 31 of each year stating that the policy continues to meet the standards set forth in subsection (c), and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) the required standards, he shall authorize the insurer to have printed on such policy an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State insurance commissioner with a list of all the policies which have received his certification.

"(b) Any medicare supplemental policy issued in any State which has established under State law a regulatory program providing for the application of minimum standards with respect to such policies equal to or more stringent than the standards provided for under subsection (c) shall be deemed (for so long as the Secretary finds such State program continues to require compliance with such standards) to meet the standards set forth in subsection (c).

"(c) The Secretary shall not certify under this section any medicare supplemental policy for any period, nor continue a certification for any period, unless he finds that for such period such policy—

"(1) meets standards set forth by the Secretary with respect to adequacy of coverage (either in a single policy or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjunction with one another), but such standards shall not require coverage in excess of coverage of the part A medicare deductible and the following coverage required under section 7 (I) (2) of the 'NAIC Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act', adopted by the National Association of Insurance Commissioners on June 6, 1979:

"(A) coverage of part A medicare eligible expenss for hospitalization to the extent not covered under part A from the 61st day through the 90th day in any medicare benefit period;

"(B) coverage of part A medicare eligible expenses incurred as daily hospital charges during use of medicare's lifetime hospital inpatient reserve days:

"(C) upon exhaustion of all medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 50 percent of all medicare part A eligible expenses for hospitalization not covered by medicare, subject to a lifetime maximum benefit of an additional 365 days; and

"(D) coverage of 20 percent of the amount of medicare eligible expenses under part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of $200 of such expenses and to a maximum benefit of at least $5,000 per calendar year;

"(2) is written in simplified language, and in a form, which can be easily understood by purchasers;

"(3) does not limit or preclude liability under the policy for a period longer than six months because of a health condition existing before the policy is effective;

"(4) contains a prominently displayed 'no loss cancellation clause' enabling the insured to return the policy within 30 days of the date of receipt of the policy (or the certificate issued thereunder) with return in full of any premium paid;

"(5) can be expected (as estimated for such period, not to exceed one year, to the maximum extent appropriate, on the basis of actual claims experience and premiums for such policy and in accordance with accepted actuarial principles and practices) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies, and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies; and

"(6) contains a written statement, in such form as the Secretary may prescribe, for prospective purchasers of such information as the Secretary shall prescribe relating to (A) the policy's premium, coverage in relation to the coverage and exclusions under medicare, and renewability provisions, and (B) the identification of the insurer and its agents.

"(d) (1) Whoever knowingly or willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting under the authority of or in association with, the program of health insurance established by this title, or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) (A) Whoever knowingly sells a health insurance policy to an individual entitled to benefits under part A or enrolled under part B of this title, with knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled, other than benefits to which he is entitled under a requirement of State or Federal law (other than this title), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned not more than five years, or both.

"(B) For purposes of this paragraph, benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual, shall not be considered as duplicative.

"(C) This paragraph shall not apply with respect to the selling of a group policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or members or former members (or combination thereof) of the labor organizations.

"(4) (A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(B) A prohibited purpose means the advertising, solicitation, or offer for sale of a medicare supplemental policy (or a certificate issued thereunder), or the delivery of such a policy (or a certificate issued thereunder), into any State in which such policy or certificate has not been approved by the State commissioner or superintendent of insurance. For purposes of this paragraph any medicare supplemental policy (or a certificate issued thereunder) shall be deemed to be approved by the State commissioner or superintendent of insurance of such State if (i) it has been approved by the commissioners or superintendents of insurance in the States in which more than 30 percent of such policies or certificates are sold, or (ii) such State has in effect a law which the commissioner or superintendent of insurance has determined gives him the authority to review, and to approve, or effectively bar from sale in the State, such policy or certificate; except that such a policy or certificate shall not be deemed to be approved by a State commissioner or superintendent of insurance if such State requests to the Secretary that such policy or certificate be subject to such State's approval.

"(C) This paragraph shall not apply in the case of a person who mails or causes to be mailed a medicare supplemental policy (or certificate issued thereunder) into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy or certificate is mailed is located in such State on a temporary basis.

"(D) This paragraph shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a medicare supplemental policy (or of a certificate issued thereunder) previously issued to the party to whom (or on whose behalf) such duplt-

cate copy is mailed, if such policy or certificate expires not more than twelve months after the date on which the duplicate copy is mailed.

"(e) The Secretary shall provide to all individuals entitled to benefits under this title (and to the extent feasible, individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

"(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) promoting policies which provide reasonable economic benefits for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, and (v) improving price competition.

"(B) Such study shall also address the need for standards or certification of health insurance policies sold to individuals eligible for benefits under this title, other than medicare supplemental policies.

"(C) The Secretary shall, no later than July 1, 1981, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

"(2) The Secretary shall submit to the Congress on January 1, 1982 and periodically as may be appropriate thereafter (but not less often than once every two years), a report evaluating the effectiveness of the certification procedure and the criminal penalties established under this section, and shall include in such reports an analysis of—

"(A) the impact of such procedure and penalties on the types, market share, value, and cost to individuals entitled to benefits under this title of medicare supplemental policies which have been certified by the Secretary;

"(B) the need for any changes in the certification procedure to improve its administration or effectiveness; and

"(C) whether the certification program and criminal penalties should be continued.

"(g) For purposes of this section, a medicare supplemental policy is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title; but does not include any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or members or former members (or combination thereof) of the labor organizations.

"(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on January 1, 1982.

(c) The Secretary of Health, Education, and Welfare shall issue final regulations to implement the certification procedure established under section 1882(a) of the Social Security Act not later than October 1, 1980. No policy shall be certified and no policy may be issued bearing the emblem authorized by the Secretary under such section, until January 1, 1982. On and after January 1, 1982, policies certified by the Secretary may bear such emblem, including policies which were issued prior to January 1, 1982, and were subsequently certified, and insurers may notify holders of such certified policies issued prior to January 1, 1982, using such emblem in the notification.

Mr. BAUCUS. Mr. President, this amendment substitutes a new section 508 in lieu of the current section dealing with voluntary certification of medicare supplemental health insurance policies in States that do not have adequate programs of their own.

This provision is favored by many senior citizens and consumer organizations. The General Accounting Office and the administration have gone on record in strong support of enactment of a voluntary certification program.

A number of my colleagues have been especially helpful in developing this substitute amendment. I want to thank Senators CHILES, CULVER, and METZENBAUM, for their efforts and commitment to providing needed protection to the elderly.

While I believe that the committee modification as originally adopted on December 5 is a good one, the amendment I am offering today makes a number of technical changes and clarifications which will significantly improve the proposed certification program. Let me stress that this is a fine tuning of a previously adopted amendment and it does not depart from the original intent.

Section 508 is necessary because the medicare program places certain limitations on the kinds of health services which are covered. In addition, there are deductibles and coinsurance amounts for which the beneficiary is liable.

In order to supplement their medicare coverage, nearly two-thirds of the aged population purchases private supplemental health insurance—the so-called MediGap policy. Detailed hearings held by the Senate and House Aging Committees, the House Interstate and Foreign Commerce Committee, and other investigations have identified numerous and widespread abuses in the sale of MediGap policies.

The difficulty has been, Mr. President, that in the last decade, to say the least, too many rotten apples have spoiled the barrel. That is, too many insurance agents and insurance companies have taken advantage of senior citizens, widows, widowers. These individuals often cannot read the fine print in the policy or for whatever reason purchase policies that in many cases are duplicative and does not provide the coverage they think is being given.

To assist beneficiaries and to avoid exploitation, the Senate adopted without objection a Finance Committee modification of the disability bill on December 5. The provision would require the Secretary of Health, Education, and Welfare to establish a voluntary program for certification of MediGap policies which meet certain minimum standards in States that do not apply equivalent or higher standards.

Let me stress the urgency in adopting and beginning to implement this important program. The earliest disclosures of the problem date back to 1971 when the Senate Antitrust and Monopoly Subcommittee held hearings. Roughly 19 reports, investigations, and congressional hearings have been released which further identify and document abuses in the sale of MediGap policies to the elderly.

Indeed, the House Select Committee on Aging estimates the loss to senior citizens to be $1 billion a year.

Senior citizens, like most Americans, are uninformed about insurance. An insurance policy is a "blind item"—senior citizens have no way of judging the value of what they are purchasing. They have to accept the representation of agents. They fail to understand the effect of small print commonly contained in such policies which say that in the case where a senior has more than one such policy, only one policy will pay. Senior citizens need some guidance as to what is an acceptable policy.

A Federal voluntary certification program represents a sensible approach to eliminating these problems. The Federal Government created many of these problems through the enactment of medicare and is therefore obligated and responsible to do something about it.

It has been suggested that Congress defer taking positive action on a voluntary certification program to give State legislatures an opportunity to enact the standards adopted by the National Association of Insurance Commissioners.

I commend the NAIC for adopting model minimum standards for medicare supplementary health insurance policies.

But there is absolutely no justification for delaying implementation of this program in spite of the NAIC's standards.

The senior citizens of the Nation cannot wait. They need help now. In 1971, the Senate Anti-Trust and Monopoly Subcommittee detailed significant abuses in the mail order sale of medicare supplementary health insurance policies. The next year, the National Association of Insurance Commissioners adopted model minimum standards for mail order insurance.

In 1979—some 8 years later—less than half of the States had adopted model standards for mail order policies. Moreover, even the ones that had enacted the regulations have found them inadequate and have asked Congress to step in.

The purpose of the study in section 508 is not to determine the need for a voluntary certification program, but rather

whether States have identified approaches that might be useful in making the Federal program more effective.

In delaying implementation of the certification procedure, we would be doing a grave disservice to the senior citizens of our Nation.

It is our effort here, Mr. President, to try to find some way to encourage the States to remedy the problem. My bill represents a reasonable way to light a fire under the States to encourage them to take care of the problem in their own backyards.

Under the procedure in my amendment, companies could submit their policies to the Secretary of HEW for certification that the policy meets prescribed standards. The company could then display an emblem of certification on its policy.

To be certified, a policy would have to meet standards with respect to coverage drawn primarily from the National Association of Insurance Commissioners model regulations; be written in simplified language and in a form which can be easily understood; not limit benefits for more than an initial 6 month period because of a health condition existing before the policy was effective; prominently display a "no-loss cancellation clause" enabling the insured to return a policy within 30 days with financial loss; be expected to return to policyholders in the form of aggregate benefits at least 75 percent of the amount of premiums collected in the case of group policies, and at least 60 percent in the case of individual policies; and contain information that prospective purchasers would need to make an informed evaluation of the policy.

In addition, the Secretary would make readily available to medicare beneficiaries such information as will assist them in evaluating MediGap policies.

As I have said, policies issued in any State which has implemented a regulatory program that requires compliance with minimum standards that are equal to or higher than the Federal standards would be deemed to be certified. A key standard in the voluntary certification program is the minimum loss ratio. The purpose of this provision is to insure the policyholders receive reasonable financial return for their health insurance premium dollar.

In the area of medicare supplementary insurance, it is common for companies to return as little as 20 or 30 percent on the premium dollar while Blue Cross and Blue Shield, by contrast, return over 90 percent on the premium dollar. The average loss ratio for all health insurance within the insurance industry is 80 percent.

It is unconscionable to let companies return only 20 or 30 cents on the premium dollar, retaining the rest in profits and administrative expenses.

In order to guarantee that every purchaser of a certified policy receives full and fair value, the bill provides that the Secretary will compare actual incurred losses and earned premiums each year for every certified policy form in order to determine whether it can be expected to return to the policyholder an acceptable level of payment.

If the actual data shows a payout lower than 60 percent of premiums for individual policies or 70 percent for group, certification would be withdrawn. Exceptions could be granted where the policy is in its early years and lacks credible loss experience, or where the operation of permitted preexisting-disability exclusions might create temporary aberations in a policy's benefit payment experience.

I want to stress that the standards to be applied is the loss ratio actually experienced on a yearly basis, not a loss ratio which might be anticipated over a longer period of time.

For example, take an individual policy which showed an actual loss ratio of 50 percent on its current experience, but which was anticipated to have a lifetime loss ratio over 20 years greater than 60 percent. This policy should not be certified until its current loss ratio increased to at least 60 percent.

There is no good reason why persons who buy a policy form in the first several years following its issuance should receive a poorer value than those who buy later. And there can be no assurance that a company's estimates of its long-term premium income and payout will actually occur.

For example, a company may argue that its present loss ratio of 30 percent will increase to 70 percent as the policy ages—thus producing an average loss ratio of, say, 60 percent over the next 10 years. One of the problems with such estimates is that the commpany may simply raise its premiums to offset increases in the payout—thus effectively keeping the loss ratio from increasing as predicted. Moreover, experience with our public health care programs shows dramatically how difficult it is to predict health care costs.

Under the provisions, penalties would be provided for engaging in certain fraudulent activities: For furnishing false or misleading information for the purpose of obtaining certification; for misrepresentation as an agent of the Federal Government for the purpose of selling insurance to supplement medicare; and for knowingly selling insurance policies whose benefits would be reduced or denied because they duplicate benefits under another policy held by the purchaser; and for knowingly advertising, soliciting, or offering mail-order policies in a State contrary to the desire of the State insurance commissioners.

Under the bill, selling MediGap policies by mail would be a felony unless approved by the State in to which it is mailed, or by another State in which over 30 percent of such policies are sold, or if the State has laws which permits the commissioner to review, approve, or bar these mail-order policies.

The purpose of this provision is to assure that a State insurance commissioner will have Federal sanctions available to help him protect the residents of his State against shoddy policies mailed in by out-of-State companies. The various exemptions are designed to make it unnecessary for the State and out-of-State companies to initiate any special review and approval procedure where the State chooses not to do so.

Upon conviction of any one of these four offenses, which will be classified as felonies, an individual would be subject to a fine of up to $25,000 or imprisonment for up to 5 years, or both.

Certification will assure medicare beneficiaries that the policy they purchase will provide adequate, fairly priced protection against health care expenses that are not covered by medicare. Certification, together with the provisions for full disclosure, will create a climate of consumer understanding that will foster healthy competition with a competitive advantage for the best plans.

Under the bill, the Secretary will also make available to all medicare beneficiaries information which permits them to evaluate the value of supplemental policies. This provision too will promote enhanced consumer information.

A decade of abuse and problems in the sale of MediGap policies to the elderly have been documented by investigations, reports, and congressional hearings conducted by House and Senate Select Committees on Aging.

What do these disclosures show?

Senior citizens receive confusing information about the scope and extent of coverage provided.

Unethical sales practices result in tragic situations where older Americans purchase 2, 3, 4, and in 1 case as many as 90 duplicative and worthless policies in supplementation of medicare.

Restrictive benefit clauses often make the policies financially unattractive or even worthless.

Complex policy language makes it difficult, if not virtually impossible, for these consumers to make informed and intelligent choices about the policies they wish to purchase.

By acting now to establish a program of voluntary certification, the Congress can send a strong message to those who market poor quality plans and to those who prey upon the elderly and the infirm.

I believe that we have already waited far too long to combat and eliminate the documented abuses and confusion in the medicare supplementary field.

Mr. President, in the intervening weeks since we first considered the social security disability legislation, there have been many comments on section 508. Many representatives of the health insurance industry and State regulators have contacted me indicating their views with respect to a voluntary certification program. I want to thank especially Harp Cote and Jay Jenks for their suggestions and thoughtful comments.

I have met with these individuals and spoken with countless others over the phone. I have tried to accommodate many of the concerns of the insurance industry and State regulators. I have made every effort to compromise and revise in response to legitimate comments.

My amendment incorporates many of the sound recommendations received over the past several weeks.

Let me briefly explain some of the changes reflected in the pending substitute. Some are perfecting amendments. Others are designed to clarify certain provisions of the program.

The substitute for section 508 is being

offered in the expectation that it will significantly improve this program. The substitute in no way undermines or violates the essence of the program which is to establish a procedure whereby medicare supplemental policies can be certified as meeting minimum standards.

Under the amendment, the scope of the proposed program has been limited so that it now focuses exclusively on areas of demonstrated abuses.

This has been accomplished by excluding from the definition of affected policies, group contracts established by an employer or labor organization. No case has been made that the MediGap abuses apply to employer-based and union-sponsored group policies sold to the elderly.

The amendment makes it clear that these policies will not come within the ambit of the voluntary certification program or the felony provision dealing with duplication of benefits and mail order policies.

The scope of the amendment has also been clarified with respect to State and Federal laws which provide health benefits. Concern was expressed that the penalty provision for selling duplicative policies would inadvertently interfere with State laws such as veterans' programs, workmens compensation, and no-fault auto insurance. The provision has been amended so that the duplication penalty would not apply where individuals purchased benefits which might overlap with benefits which they might become entitled to under requirements of State or Federal law (other than under title 18).

The pending amendment responds to the concern over broad secretarial discretion in setting regulations to implement and administer the voluntary certification program. In the original provision, for example, the Secretary had discretion in establishing the reasonableness of the premium charge. This discretion has been eliminated altogether since it is not the intent of the bill's sponsor to have the Secretary engage in rate-setting of insurance premiums.

Clarifications have also been made to stress that minimum standards will largely be drawn from the insurance commissioners themselves. I do not intend for the Secretary to arbitrarily impose unreasonable standards on MediGap policies for the purposes of receiving certification. In setting standards, therefore, with respect to adequacy of coverage, the Secretary will use as a guideline, the NAIC model regulations to implement the Individual Accident and Sickness Insurance Minimum Standards Act. This is another example of how the scope of the provision has been limited.

The amendment eliminates potential abuse by unscrupulous agents of the Federal seal of approval for the purpose of twisting or replacing good policies. Representatives of the insurance industry and State officials have stated that they fear that unethical agents will use the "good housekeeping seal" to encourage senior citizens to replace good policies that are not yet certified because they were issued before the voluntary certification program became effective.

The substitute eliminates this possibility by amending the effective dates of the program to occur in two stages. First, the Secretary of HEW will issue final regulations to announce the certification procedure by October 1, 1980; 15 months will elapse, however, before the Secretary may actually certify a policy and issue an emblem stating that fact.

The delay in the issuance of the certification seal will allow all companies which market medigap policies to adjust those policies to conform with Federal standards so that the seal can be provided for policies already in force when the program takes effect as well as for policies issued after that date.

The enormous concern shown by these individuals over the possible misuse of a well-intentioned program represents the best evidence of the extent of agent abuses. It provides a compelling argument in support of establishing these critical protections for elderly Americans.

The amendment will not require nor promote excessive regulations by State commissioners on the issue of mail order insurance.

State insurance commissioners who are normally wary of Federal intervention have asked the Federal Government to help them regulate mail order insurance sold to the elderly in supplementation of medicare. At the present time, it is possible for an insurance company licensed in any one of the States to offer its policies for sale in each of the other States without having these policies approved by the insurance commissioner of the States into which policies are mailed. What this means is that mail order firms escape regulation. They have the competitive advantage by being allowed to market policies which do not conform to State standards.

In response to a questionnaire on whether the States would support the mail order provision, many State regulators answered emphatically in the affirmative.

One commissioner maintained that "to much of the so-called MediGap supplemental insurance market is being solicited through the mails, insulated from State regulations."

Another commissioner indicated his full "*** support of Federal legislation designed to regulate all mail order insurance policies at the State level including those policies purportedly sold to supplement medicare coverage, whether sold on an individual or group basis. I am in complete agreement with the superintendent of insurance of the State of New York with respect to his concern about phony trusts, especially when created by insurance companies, whose only purpose is to circument State insurance laws which define 'group insurance' and do not include fictitious groups, such as 'trusts' whose members have nothing in common except their common interest in the purchase of insurance."

A commissioner of a large Southern State responded:

I strongly support your suggestion to bar the sale through the mails of any policy which has not been approved by the State insurance commissioner of the State into which the policies are mailed.

Consistent attempts have been made throughout the entire bill to draw upon the recommendations of the National Association of Insurance Commissioners. The NAIC, in fact, endorses the mail order provision, I quote:

The NAIC supports efforts to deter market abuses by imposing federal criminal sanctions for certain types of market conduct. This support was recently expressed in the number of affirmative responses to a questionnaire * * * Most insurance regulators would agree that properly drafted criminal penalties for medicare supplemental insurance abuses are an excellent example of how federal legislation can complement existing state regulation by reinforcing rather than undercutting state regulatory activities.

My amendment makes it a felony to knowingly mail any medicare supplemental policy into a State where the policy has not been approved by the State insurance commissioner. In order to avoid placing an unfair burden on State commissioners and insurers, however, the amendment permits the commissioner to deem a MediGap policy approved in his State: If it has been approved by commissioners in the State where more than 30 percent of those policies are sold, or if the State officials believes he already has sufficient authority to monitor the sale of mail orders policies in his State. In effect, the Federal sanction will be available only to the extent that the State insurance commissioner wishes to subject a policy to his own approval.

The original provision providing for the establishment of a voluntary certification program of MediGap policies sold to the elderly is a good one. The substitute amendment makes the program a better one. The focus of the legislation has been limited, concerns over broad secretarial discretion have been addressed, and potential abuses of the Federal seal have been eliminated.

The certification program will result in no significant additional Government expenditures. It will create no new Federal bureaucracy. The Secretary of HEW will not have wide powers to promulgate a raft of new regulations. Consumer groups, senior citizens organizations, the administration, and the General Accounting Office are on record in strong support of this approach.

Congress can take a giant step toward reducing the abuses in MediGap practices by enacting this program. It will provide assurance to older Americans that the insurance policy they purchase meets basic standards for coverage and benefits. Senior citizens have waited too long for these minimum assurances. They should not be forced to wait any longer.

With that in mind, the Senator from Kansas, I understand, is going to offer an amendment to this amendment which, in effect, delays the implementation date of the HEW volunteer certification process and modifies it in a way so that the Secretary of HEW will not implement the voluntary certification process unless the Secretary of HEW finds, within a year and a half, that certain States, on a State-by-State basis, have not established standards equal to or stronger than those outlined in the bill. Mr. President, I shall accept that amendment in pursuit of finding a beginning so we can take the first step and remedy the problem.

I compliment the Senator from Kansas. I think he has been very wise in suggesting the amendment. I do not mean to steal his thunder in describing it, but he also provides in the amendment that Congress will have 60 days to review the findings of the Secretary.

I think that is a good compromise. It is a good beginning. And it is my hope, Mr. President—in fact, it is my understanding—that all the principal actors in this amendment agree to it.

I thank all those parties for their very fine efforts.

Mr. President, I ask unanimous consent that a list of some of the abuses we we are covering, as well as a table listing some of the studies of abuses, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CASE HISTORIES

There is a veritable litany of case histories where senior citizens are easy prey for aggressive and unscrupulous insurance agents.

Item: A 76-year-old Illinois woman was sold some 71 life and hospitalization policies since she was widowed in 1976. Some 42 of the policies are currently in effect. It was reported she had to mortgage her farm to keep up with the premiums which in one year amounted to $15,000.

Item: An 80-year-old Pennsylvania woman spent over $50,000 on 31 policies over a three-year period. She took out a $3,000 loan from a bank to make insurance payments.

Item: A Pennsylvania widow also near 80 was spending $100 of her $109 old age pension on insurance. She said she sold baked goods and dipped into her small savings to survive.

Item: An 87-year-old Wisconsin woman purchased 19 different policies from 6 agents representing 9 companies and costing $4,000. As in these other cases, the policies were largely worthless because of duplication.

Item: A Florida couple, age 82 and 78, delayed repairing their refrigerator, television or stove because they were trying to keep up with $2,882 yearly premium on 19 separate insurance policies.

Item: An Ohio woman bought 13 different policies over a two-year period, costing her more than $9,000 or 68 percent of her income.

Item: An 84-year-old Texas woman paid over $15,303 for 23 health policies. Investigation revealed that several of the items she thought were insurance policies were worthless vehicle warranty contracts and a deed to worthless, unwanted Texas land.

Item: A 94-year-old Kansas man was sold 23 accident and health policies in the past three years.

Question 1: Should the enactment of a program of voluntary certification and other reforms in the Baucus amendment be postponed until further study can be made?

Answer. No. Senior citizens cannot afford to wait. They need help immediately. An insurance policy is very much a "blind item"—consumers cannot judge the worth of the policy themselves and must rely upon the representations of agents. There have been 19 major studies of this issue going back as far as 1971. These studies are listed below. They confirm the nationwide scope of the problem and the fact that few States have taken action to prevent senior citizens from being sold multiple, duplicate and essentially worthless insurance policies.

December 1979. Study of Medigap Insurance by George Washington University's Intergovernmental Health Policy Project (soon to be released).

November 1979. Study by American University on "Medicare Supplements and their value and control under grant No. 90-a-1677 from the Administration on Aging (HEW).

June 1979. Hearings by the House Interstate and Foreign Commerce Committee.

June 1979. Study by the U.S. General Accounting Office for the House Committee on Aging.

June 1979. Hearings by the Massachusetts Legislature.

November 1978. Hearings by the House Select Committee on Aging and a report "Abuses in the Sale of Health Insurance to the Elderly in Supplementation of Medicare: A National Scandal."

September 1978. Study of Medigap Insurance by the Chicago Tribune.

July 1978. Study of Medigap Insurance by the Federal Trade Commission.

July 1978. Study by the Kansas Insurance Commissioners.

May–June 1978. Hearings by the Senate Committee on Aging.

March 1978. Exposé of Medigap Insurance Abuses by the Newark Star Ledger.

December 1977. Investigation by the Wisconsin Insurance Commissioner.

July 1976. Investigation by the State of Oregon.

January 1976. Study by Consumer Reports magazine.

September 1974. Study by the State of Pennsylvania Department of Insurance.

December 1974. Report on Medigap Insurance by the Senate Committee on Aging.

May 1973. Consumer Reports magazine.

January 1973. Investigation by the Pennsylvania Department of Insurance.

May 1972. Hearings by the Senate Judiciary Committee, Subcommittee on Anti-Trust and Monopoly.

Mr. BRADLEY. Mr. President, as a member of both the Finance Committee and the Special Committee on Aging, I would like to join Senator BAUCUS today in reaffirming support of the MediGap amendment added to H.R. 3236 by the Finance Committee last November.

The enactment of medicare in 1965 provided long awaited relief to those of our Nation's elderly burdened with high medical expenses and little, if any, insurance coverage. Now, 15 years later, we are coming to terms with the fact that medicare is not a comprehensive program. Many of the medical services used by the elderly are not covered under medicare. Furthermore, the growing financial strain associated with these gaps in coverage has eroded some of the early achievements of this insurance plan. The aged pay more out-of-pocket for medical services today than they did in 1965. Only 38 percent of all medical bills faced by the elderly are paid by medicare; the remainder are paid out-of-pocket, or through medical assistance or private insurance.

The growing financial burden of these uncovered services has created a new market—the medicare supplemental or MediGap insurance industry. A vast array of private insurance companies, from the most respectable to the less reputable, have entered the marketplace. Over 50 percent of people over 65, or 12.6 million, have at least one such policy, spending between $500 million and $1 billion annually on premiums. The supplemental policies that call themselves MediGap are of very different types, with very different benefits and degrees of supplementation of medicare. While many MediGap insurers deal in an honest way with their elderly clientele, some insurers have exploited this new market, preying on the real fears of the elderly over rising health care costs.

In 1978 the Special Committee on Aging held hearings which detailed numerous horror stories about unscrupulous marketing tactics for MediGap policies. Postdating, forgery and misrepresentation are all too common, and consumers are often knowingly sold plans with duplicative coverage, believing that each policy fills a different gap. For example, testimony revealed that one 87-year-old woman was sold 19 separate MediGap policies in a single year.

Abuses such as fraud, highlighted in the Senate hearings, are only part of the problem. Confusion about what is and what is not covered by medicare is widespread among beneficiaries. Hence the need for supplementation in specific areas is not always understood. Moreover, consumers are generally not well informed about health insurance and can misinterpret the usefulness of various policy provisions and exclusions. Another critical cause of misunderstanding derives from the lack of standardization of MediGap policies. With no two policies exactly alike, it is difficult, if not impossible, for the consumer to evaluate the relative cost or merits of different MediGap policies.

Because the insurance industry is regulated by the States, regulation of the MediGap market has been very uneven. In most States interest in the MediGap insurance area has developed only gradually. Most State efforts have focused on requiring insurers to provide information and disclosure about their policies. Some States have mandatory standardization and minimum loss ratio requirements. Some States provide medicare beneficiaries with information on how to make good choices among various MediGap alternatives through booklets with descriptions and warnings.

Some States have gone further, requiring insurers to provide consumers with disclosure forms describing medicare benefits, the supplemental policy's benefits and major areas that neither medicare nor the MediGap policy covers.

Sometimes insurers are required to reveal the plan's estimated loss ratio, that is, the percentage of the premium dollar returned in benefits; a number of States have mandated minimum loss ratios by all health insurers. And some States have done virtually nothing. The picture, in short, is very much a patchwork. Abuses and confusion continue.

Such is the backdrop for the MediGap provision approved by the Senate Finance Committee last November. The committee's amendment is intended to remedy the major problems in the MediGap marketplace by providing for voluntary certification of medicare supplemental health insurance policies. The Secretary of HEW, in consultation with the National Association of Insurance Commissioners, would establish minimum standards for MediGap policies. Private insurance companies could then submit their policies for certification. Policies is-

cied in any State which has its own program requiring compliance with minimum standards comparable to those included in the Federal certification program would also be considered certified and would bear the HEW "seal of approval."

Policies certified would be required to contain a written statement of the policy's premiums, coverage, renewability, and coinsurance features. They would also have to be written in simplified language which can be understood by the purchasers. Finally, HEW would undertake a major program of providing information to medicare beneficiaries about medicare coverage, the gaps in coverage, and the value of supplementary policies. The result of this program of voluntary certification and consumer education should be to assure more informed choices by those purchasing MediGap insurance and thereby to reduce the abuses and confusion which currently characterize the medicare supplemental insurance field.

Some have proposed that we delay enactment of this voluntary certification program. I do not believe that further delay is either necessary or reasonable. Nineteen major reports issued since 1972 have documented the serious problems associated with the patchwork of so-called MediGap insurance. Senior citizens and their famiiles should not be required to wait for yet more evidence of abuse. At the present time they have no way of identifying good policies. They must rely on the representations of agents. This modest proposal for voluntary certification is much needed and long overdue. I strongly urge its enactment.

● Mr. METZENBAUM. Mr. President, I rise in support of the Baucus amendment to establish a voluntary certification program for medicare supplemental policies sold to the elderly. Recent investigations by both the House and Senate Select Committees on Aging have documented abuses in the sale of this insurance which are so extensive they constitute a national scandal. I commend Senator BAUCUS for his excellent work on this issue.

I have been deeply concerned about this issue for some time. The Subcommittee on Antitrust and Monopoly has been conducting an extensive examination of the insurance industry under the McCarran-Ferguson Act. Over the past 2 years I have chaired six major hearings on issues ranging from unfair discrimination in property and auto insurance to excessive rates and marketing abuses in credit insurance. I am, therefore, especially pleased to support this amendment, a proposal which addresses an extremely urgent problem in the insurance business. My staff has worked closely with Senator BAUCUS and the Finance Committee on this amendment.

The voluntary certification program is an important step forward. Presently, few States regulate this type of insurance effectively. Widespread and systematic abuses of senior citizens have been documented in thorough congressional hearings and reports. Many companies routinely return as benefits only 30 or 40 cents out of every premium dollar. Numerous agents, as shown by extensive testimony, misrepresent the scope of coverage, and overload unknowing senior citizens with duplicative coverage. Many companies sell by mail in order to use jurisdictional limitations to avoid regulation by States in which they sell.

Examples of flagrant maltreatment abound. An 88-year-old woman in Florida was sold more than $10,400 of health insurance in a year. A blind, 94-year-old man in Kansas was sold nearly 26 accident and health policies in 3 years. In Pennsylvania, a truly shocking case involved the sale of 31 policies costing $50,574 to an 80-year-old woman over a 3-year period. Every policy lapsed, but not until the woman's entire life savings had been wiped out.

The list is endless; I could recite cases like these all day. Hearings held by the House and Senate Select Committees on Aging, as well as by a number of State commissioners, document a national scandal of awesome proportions. Low pay-outs, high-pressure sales tactics, and duplicative coverage are typical of many insurers operating in many States. The exhaustive record compiled leaves no room for the theory that the problems documented can be explained by an occasional unscrupulous agent or misunderstanding by a policyholder.

Former insurance commissioner William J. Sheppard of Pennsylvania described the problem as "the disgraceful exploitation of the senior citizens of Pennsylvania through the sale of health insurance." Former insurance commissioner Harold Wilde of Wisconsin characterized the "medi-scare insurance racket, as a multimillion-dollar rip-off of our senior citizens" and stated that it has "swindled tens of thousands of Wisconsinites over the past few years." Executive director William R. Hutton of the National Council of Senior Citizens recently stated that the sooner we reach a national standard for MediGap insurance, the quicker we can wipe out "the disgrace of these horrors." The recent staff study of the House Select Committee on Aging concluded that there are widespread abuses with respect to MediGap insurance and that there has been a failure to aggressively regulate such abuses by many State insurance commissioners.

Most MediGap insurance is sold by small specialty companies. The House Select Committee on Aging reported that all but one major company, to which it has sent questionnaires, agreed that the current concern about abuses in the sale of medicare supplementary insurance is justified.

The elderly are easy victims for unscrupulous insurance sellers. Senior citizens often fear no one will sell them health insurance because of their age. Terrified by the crushing costs of medical care, they tend to buy policies indiscriminately in an effort to purchase security. At the same time, they are frequently ignorant about insurance matters, and not always able to look out for their own bests interests. As a result, they are easy marks.

Medicare, of course, is a Federal program. Since MediGap insurance is expressly designed to cover what medicare does not, it is especially appropriate that Federal standards govern this type of insurance.

I would prefer mandatory standards. I believe that the record of chronic abuses and inaction by the majority of States clearly supports the imposition of compulsory minimum standards. But a voluntary program is a start. And with tough but fair standards, a good start. Voluntary certification would allow the better policies the opportunity to earn the "Good Housekeeping" seal of approval. Consumers could then be assured of a fair deal whenever they bought a policy certified by the U.S. Government.

But for such a system to work, it is imperative that the standards set be both high and rigorous. It would be a cruel hoax indeed if a policy officially certified by the Federal Government turned out, after all the experience came in, to be a ripoff.

I believe that certification by the U.S. Government should be a mark of excellence. I support this program only on the assumption that no MediGap policies will be certified by the Secretary of HEW unless they are of truly first-rate quality. It is imperative that the standards applied be both high and rigorous.

A key provision is the minimum loss ratio. This standard will insure that at least 60 percent of premiums paid are returned to individual policyholders as benefits. While much lower than the standard generally achieved by Blue Cross/Blue Shield plans, this measure is a guarantee of minimum economic value. In administering this program, I expect the Secretary to make sure that policies remain certified only if actual data, checked on a yearly basis, show that the loss ratio standard is actually being met.

As I understand the amendment, long-term anticipated loss ratios, based on estimates of future losses, will not be relied on. Without reference to actual loss and premium experience on a current basis, it would be extremely difficult to monitor compliance with the standard.

Other key provisions in the amendment are the disclosure requirements. Senior citizens must be informed not only what a policy covers, but what it does not. This is key to avoiding pie-in-the-sky sales presentations which often conceal glaring deficiencies in coverage. Also of great importance are penalties provided for selling duplicative coverage, pretending to act under the authority of a Federal agency, or selling policies through the mail in States where they have not been approved.

The voluntary certification program is an important step forward. It is a moderate and balanced program. The problems congressional hearings have documented in the sale of health insurance to the elderly are of the utmost severity and urgency. Little effective action has been taken by the States to date. It is imperative that Congress act quickly and decisively to protect the Nation's elderly from insurance ripoffs.●

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator CULVER, Senator METZENBAUM, and Senator LEVIN be added as cosponsors of the amendment.

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

SENIOR CITIZEN HEALTH INSURANCE REFORM

● Mr. CULVER. Mr. President, in the 1st session of the 96th Congress, Senator BAUCUS and I introduced the Senior Citizen Health Insurance Reform Act of 1979. This legislation would establish a voluntary certification program for companies selling insurance policies intended to supplement medicare coverage, and stiffen the penalties for unethical sales practices. As such, it would provide much-needed consumer protection to the millions of older Americans who purchase such health insurance policies. The major provisions of the Senior Citizen Health Insurance Reform Act have been included in the Social Security Disability Amendments of 1979, which are now before the Senate.

Many people under age 65 do not realize that medicare covers only a modest and declining portion of the elderly's health-care expenses. To offset the skyrocketing costs of health care and the potentially bankrupting effect of a catastrophic illness, 15 million out of 23 million, or two-thirds, older Americans have turned to private health insurance policies to fill the gaps in their medicare coverage.

Numerous investigations and detailed hearings, by both House and Senate Committees on Aging, have documented widespread abuses in the sale of these medicare supplemental, or so-called MediGap, policies. Instead of bolstering medicare benefits, many policies sold to the elderly merely duplicate coverage already held and return as little as 20 cents in benefits for every dollar paid in premiums. A Federal Trade Commission study released in July 1978, noted that fully one-quarter of our senior citizens who attempt to purchase extra insurance to supplement medicare are actually sold unnecessary, costly, and overlapping coverage. The multiple abuses uncovered in the supplemental insurance area may well constitute a $1-billion-a-year fraud against older Americans.

Mr. President, it may not be possible to guarantee that no older person is sold an unneeded health insurance policy, or one that fails to provide all the needed benefits, but it is possible to reduce substantially the current fraud and abuse in this area. Many people are persuaded to buy unnecessary or duplicative policies because they lack the information needed to evaluate the value of various insurance plans. Few understand the implications of various escape clauses that exclude coverage of preexisting health conditions for lengthy waiting periods, or specify that only one policy will pay in the event of an illness. The fine print, technical provisions, and complex language contained in many policies often confuse the elderly. Moreover, older consumers have little or no protection against unscrupulous tactics by companies and agencies selling medigap policies.

The supplemental medicare insurance legislation included in the social security disability amendments would address these problems of abuse and fraud against the elderly in several ways. This bill would direct the Secretary of Health, Education, and Welfare to establish Federal minimum standards for "medigap" insurance. Companies providing such policies could then voluntarily submit their policies to the Secretary for certification. Policies meeting minimum standards for value and clarity would receive a uniform seal of approval which then would give the elderly purchaser some standard by which to judge the policy and some assurance that the policy is not deceptive. The Federal minimum standards outlined in this legislation are based on model standards adopted by the National Association of Insurance Commissioners (NAIC).

To address the problem of unethical sales practices, this bill would institute Federal criminal penalties for those who knowingly sell to a person eligible for Federal health insurance programs such as medicare, a policy which substantially duplicates protection already owned. It would also be a felony for any insurance salesman to pretend to be a representative of medicare as a tactic to pressure the elderly to purchase a policy.

Mr. President, not all senior citizens are touched by the documented abuses in the supplemental medicare insurance field, nor are most insurance companies or agents guilty of perpetrating those abuses. But the problems faced by this Nation's elderly, in attempting to insure their financial security against the rising costs of health care, cannot be ignored. I urge my colleagues to support this provision of the disability amendments and the protection it provides.●

Mr. DOMENICI. Mr. President, will the Senator yield me 3 minutes?

Mr. BAUCUS. I yield.

Mr. DOMENICI. As I understand it, the Dole substitute which the Senator has addressed in his remarks as a compromise has not yet been introduced, but will be shortly, is that correct?

Mr. BAUCUS. That is correct.

Mr. DOMENICI. I am a cosponsor of it and I rise in support of it. The senior Senator from Florida and I as the ranking Senator on the Aging Committee, undertook hearings in that committee on this issue of fraud with reference to so-called MediGap insurance. I am sure it exists. I am sure that population of senior citizens that are concerned about whether or not they are going to be able to take care of the expenses that accompany sickness and ailments of aging are among our poorer population and many of them have been misled. Many of them have been victims of agents that have almost been malicious in their intent to defraud and cheat them.

While all this investigation has been occurring, the States in the Nation have begun to respond with statutes and regulations that will protect the citizens in their respective States. It is this Senator's opinion that this amendment will say to the States, "Unless you want the Federal Government to get involved, you had better clean up your own house; you had better pass at least a minimal disclosure and substantive requirements proposed by your own industry and reiterated in this amendment." They will be given a clear opportunity, under the Dole modification, to do that. If they do not, and it is found that they do not, or they are not ready within the time prescribed in this amendment, then the U.S. Government, through the Secretary of HEW, will so find and will inform the committees of jurisdiction in both bodies and we shall be free to act.

I think, on the State-by-State basis, it is obviously the intent of this amendment that, it will be clearly visible to all which States are really desirous of protecting the senior citizens within their States. We shall find out, in short order, whether the States are really capable of doing that and, if they are not, they and the insurance industry will have to take the medicine of having, on a State-by-State basis, the National Government certify which policies meet minimum standards and which do not.

I hope they will all enact legislation so they can police the industry and protect their citizens. It will be a far better approach.

Having said that, I commend the Senator from Montana for the interest and effort he has engaged in this issue. I am confident we must do something. I am hopeful that the industry and the States will do it for themselves and we shall not have to breach the long-standing commitment of our National Government to stay out of the regulation of insurance. I wholeheartedly concur that something must be done. I hope this is enough. I hope the Dole compromise, which I want to be a cosponsor of, will pass tonight and become the law of the land.

I thank the Senator from Montana for yielding.

Mr. BAUCUS. Mr. President, I yield the floor.

Mr. CHILES. Will the Senator yield me a second?

Mr. DOLE. I yield to the Senator from Florida.

Mr. CHILES. Mr. President, I support the Senator from Montana in his amendment. The Committee on Aging, almost 2 years ago, held hearings on the MediGap insurance abuses and I think what we are doing here today is an attempt to correct that.

NO DELAY ON MEDIGAP INSURANCE AMENDMENT

Mr. President, I rise in support of the MediGap amendment. section 508 of the bill before us, which the Senate unanimously agreed to consider as part of this bill on December 5, 1979. We have considered this matter long enough, and I believe any further delay would send an unmistakable message to the millions of older Americans who are waiting for Congress to take action against the blatant abuses which have been uncovered in the sale of MediGap insurance policies.

Mr. President, as chairman of the Committee on Aging, I sat through 2 days of eye-opening testimony from elderly

people who had been swindled—from State insurance commissioners who verified that these problems had been around for a long time—and from State law enforcement officials who told us how hard it was to control MediGap abuses. That was in 1978. And the Committee on Aging also had hearings on MediGap abuses, and issued a report, in 1974.

The House Subcommittee on Health and the Environment has held 2 days of hearings. The House Select Committee on Aging has held hearings. The Finance Committee and the Ways and Means Committee have studied MediGap problems, and both of these committees have taken decisive action. The Ways and Means Committee has already reported an amendment very similar to the one before us now. I call attention to the statement made by members of the Ways and Means Committee in their committee report: That a "consensus has emerged about the critical need to act" on MediGap abuses.

This amendment is solidly supported by older Americans, by consumer groups, by the Department of Health, Education, and Welfare, and by the White House. They have all given this issue study, and they are all urging that there be no further delays.

There is some pretty strong support right here in the Senate too. Just before the Christmas recess, Senator DOLE, Senator BAUCUS, and I and 20 other Senators circulated a letter urging all Members to support this amendment and give it quick action.

The first time severe problems in marketing MediGap insurance policies were given Federal attention was in 1971. There have already been 20 major studies of this issue.

I think that is enough study, and we have waited long enough. Older Americans should not be asked to wait even longer. They have already lost millions of dollars. Granting further study would only mean further losses.

Mr. President, some health insurance companies and State insurance departments raised objections to portions of the amendment before us because they thought some of the language was too vague and needed more clarification. They were afraid there would be some unintended consequences once the voluntary certification program was implemented.

I point out that Senator BAUCUS and Senator DOLE and the Finance Committee staff have listened to these concerns. Senator BAUCUS has made a number of technical changes and clarifications to this amendment in response to these concerns. I think they are all good changes and will strengthen the amendment.

I do not think anyone quarrels with the minimum standards for MediGap insurance policies proposed in the amendment. These standards come from recommendations made by the National Association of Insurance Commissioners and members of the Health Insurance Association of America.

What some do not like, however, is the provision for HEW certification of policies which meet these standards.

Mr. President, I remind my colleagues once more that this would be a purely voluntary program. No insurance company in any State would be required to participate. The amendment simply says that those policies which meet the minimum standards outlined in the bill—minimum standards which the industry and the National Association of Insurance Commissioners have agreed upon—could carry a claim to that effect.

Further, the provision for a voluntary certification program supports and encourages State regulation. It in no way preempts State regulation. Policies sold in any State which regulates MediGap insurance sales in a comprehensive manner would automatically be certified. In this way, any State which finds a better way than what we are proposing now would in no way be penalized.

I know that a number of States have already made some good faith efforts to strengthen their protections against MediGap sales abuses, and I hope that additional States will do so. I am afraid, however, that if we backtrack on this legislation now, the progress we have been seeing at the State level will slow down considerably.

Forty-three percent of all State insurance departments have classified MediGap marketing abuses as a "major" problem. Most of the rest of the States indicated that MediGap problems were serious, if not "major." Very few States, however, have conducted an investigation of MediGap problems, and 75 percent of all States do not think that additional State legislation is needed to control abuses.

By the end of 1979, only a few States had taken truly comprehensive action to combat MediGap abuses. Wisconsin and California have been leaders in this area, and now Massachusetts and New Jersey are in the process of adopting comprehensive new regulations.

Even though a large number of States, somewhere between 20 and 30, have given some attention to MediGap abuses recently, most of the actions have been quite limited. For instance, somewhere around 20 States have produced, or plan to produce, a consumer information pamphlet on MediGap. But only two States—Wisconsin and Michigan—require that it even be used at the time of sale of delivery of a MediGap insurance policy. Of the nine States which are developing information disclosure procedures, Wisconsin is the only State which mandates the delivery of a disclosure form at the time of sale, as suggested by the National Association of Insurance Commissioners.

Only eight States have set, or are proposing, minimum loss ratios for MediGap insurance policies.

Mr. President, I think these are all encouraging actions, but I point out that half the States have yet to take any action and that much more comprehensive action is needed even in most of those States which have taken some action since so much publicity has been given to MediGap insurance abuses.

I, for one, would be very happy if this happened, and we no longer had a need for any kind of voluntary certification program. But I do not think we have arrived at that point yet.

I am fearful, therefore, Mr. President, that any signal from the U.S. Senate that we are not serious about continuing to monitor this situation would mean the end of any of the progress we have made so far.

MODIFICATIONS TO MEDIGAP AMENDMENT

Mr. President, Senator BAUCUS and Senator DOLE and the Finance Committee staff have spent considerable time going over the language of section 508 of the bill before us—the MediGap amendment which the Senate has agreed to consider as part of the disability bill. Senator BAUCUS is proposing a number of technical and clarifying changes which I support.

I would like to point out that these changes have been made partially in response to some fears expressed by a few health insurance companies and State insurance commissioners who felt that portions of the language were not defined clearly enough. This has been a good faith effort to make sure that there are not unintended consequences once the amendment's provision for a voluntary certification program of medigap policies is implemented, and I think these changes are good ones and will strengthen the amendment.

Mr. President, these changes should make it easy for us to act now. It has been almost 2 years since I first chaired hearings which revealed startling abuses in the sale of MediGap insurance policies to the elderly. There have been additional hearings and numerous studies since that time which have shown clearly that this market is full of instances of overselling low-value insurance policies and tricking elderly people into squandering their life savings on dozens of insurance policies which will provide them little or no return.

I would hate to be the one to say that we think we need further study before we act.

It appears that the New York State insurance department had feared that the amendment would preempt their no-fault auto insurance rules. The amendment would in no way preempt any State law or regulations, but his has been further clarified.

Some insurance companies were fearful that the provision for State approval of mailorder insurance sales would have acted as a disincentive for employer/employee and labor organization group MediGap plans. This was never intended by the amendment. As a matter of fact, we all recognize that these are often the best MediGap insurance plans available to retired workers. Further clarification of this fact has also been made.

Other technical changes have been made to make sure there are no misunderstandings about the Secretary's authority to determine voluntary loss ratio standards and information disclosure forms for use in the voluntary certification program.

UP AMENDMENT NO. 939

(Purpose: To require a finding by the Secretary that State programs are inadequate before he implements the certification program)

Mr. DOLE. Mr. President, I send an amendment to the Baucus amendment

to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Until the time of the first degree amendment has been used or yielded back, the amendment is not in order.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back?

Mr. LONG. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself Mr. HAYAKAWA, and M. DOMENICI. proposes an unprinted amendment numbered 939 to the amendment proposed by Mr. BAUCUS numbered 938.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the end of the unprinted amendment numbered 938 add the following:

At the end of section 508(c) insert the following:

(2)(A) The Secretary of Health, Education, and Welfare shall not implement the certification program established under section 1882(a) of the Social Security Act with respect to any State unless he makes a finding, based on the study carried out under section 1882(f)(1)(A)(vi) of such Act and information submitted by such State, that such State cannot be expected to have established, by January 1, 1982, a program meeting the requirements of section 1882(c) of the Social Security Act. If the Secretary makes such a finding, and such finding is not disapproved under subparagraph (B), he shall implement such program under section 1882(a) with respect to medicare supplemental policies sold in such State, until such time as such State meets the requirements of section 1882(b) of such Act.

(B)(i) Any finding by the Secretary under subparagraph (A) shall be transmitted in writing to the Senate Committee on Finance and the House of Representatives Committees on Interstate and Foreign Commerce and Ways and Means.

(ii) The findings of the Secretary shall not become effective until 60 days after transmittal of the report to the Congress. In continuing such days, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

Amend section 508(a) by amending the text of section 1882(f)(1)(A) of the Social Security Act (as added by section 508(a)) by striking out "and (v) improving price competition" and inserting "(v) improving price competition, and (vi) establishing effective State programs as described in subsection (b)".

Mr. DOLE. Mr. President, I wish to begin by commending my fellow colleagues, the Senator from Florida (Mr. CHILES), the Senator from New Mexico (Mr. DOMENICI) and also the Senator from Montana (Mr. BAUCUS), for the work they have done in bringing the abuses in the sale of medicare supplemental policies to light. I also thank the distinguished Senator from Nebraska (Mr. EXON) for his efforts. He has assisted us in working out a compromise and we appreciate his efforts.

Senator CHILES chaired hearings of the Special Committee on Aging some 18 months ago, during which time the shocking behavior of some unscrupulous agents and insurance companies was cited. Hearings by the House Select Committee on Aging followed shortly thereafter uncovering similar examples of abuse. We heard stories about individuals who were sold 3, 4 and sometimes as many as 10 policies. The media became enchanted with agents in ski masks and hoods who hand mended their "twisting" ways.

A legislative remedy was proposed and is now a part of the social security disability bill before the Senate. That remedy proposes there be a voluntary certification program for medicare supplementary policies; criminal sanctions for agents or companies who misrepresent themselves as an agent of the government or who knowingly sell a duplicate policy, penalties to limit certain mail order sales; and also requires the Secretary of HEW to conduct a comprehensive study of health insurance purchased by the elderly.

I agree with my colleagues completely on the seriousness of this problem. The behavior of some agents and companies is indeed shocking and should be dealt with.

The original amendment agreed to by the Finance Committee, was an attempt to deal with many of the problems identified in these hearings and investigations.

Over the last month countless meetings have been held with representatives of the insurance industry in an attempt to refine the provision agreed upon earlier, and accomodate, to the extent possible, their concerns. The amendment offered today by the Senator from Montana reflects many of the changes recommended and is an improvement over our previous efforts. However, my amendment represents a further attempt to encourage State activity and avoid unnecessary Federal activity.

I suggest that this issue is a matter that certainly deserves attention. It has had the attention of the Senate and the attention of the Finance Committee, and certainly the Special Committee on Aging under the leadership of Senator CHILES and Senator DOMENICI.

We believe we have worked out a compromise that will help control some of the abuses and, at the same time, permit some flexibility.

It is the purpose of my amendment to require that before the Secretary implements the certification program in a State, as outlined in the proposal pending before us, he must make a finding that the State has failed, to establish a program by law or resolution, to regulate medicare supplemental policies.

The Secretary must additionally report his findings to the Congress, which is then given 60 days to review these findings which are based on a study to be completed by July 1, 1981.

I further outline what we mean by 60 days. It is not 60 legislative days. That could be forever. But it is 60 days in session. We used some boilerplate language suggested by the Parliamentarian to further spell that out.

The amendment, as proposed, leaves the rest of the program and time schedule in place.

In offering this amendment, the Senator from Kansas, in no way, wishes to place in doubt his continued belief in the need for stronger regulation of this form of insurance and in no way is this an attempt to unnecssarily stall or otherwise delay activity in this area.

In conversations with a number of insurance commissioners, the desire on the part of many states to resolve these problems through State actions, has become apparent. The Senator from Kansas believes it is in the best interest of this program, and of the medicare beneficiary, to encourage these efforts. My amendment, though placing an emphasis on the State programs, still retains the ability of the Federal Government to proceed if the States fail to meet this goal and thus the medicare beneficiary is assured of action being taken.

UNITED STATES

The Senator from Kansas does not believe all the solutions will fall solely within the appropriate jurisdiction of the Federal Government, nor the insurance industry, nor of the State insurance commissioners. The responsibility for solving the problems with medicare supplementary health insurance must be shared by us all.

The insurance industry itself has begun to address these problems, and they are to be commended for their efforts. Many State insurance commissioners are contributing their thoughts and expertise in helping solve the question of how to prevent abuses in the system while still providing for and encouraging the availability of rational and responsive medicare supplementary health insurance.

My amendment is built upon my belief in this need for a united front.

After countless conversations and meetings of Members of the Senate and, certainly, the staff of Senator BAUCUS, my staff and others, who deserve considerable accolades for their efforts, believe this proposal represents a fair compromise.

CONCLUSION

We, each of us, have a responsibility to the elderly in our communities to protect them against the type of abusive practices that have come to light with respect to the sale of medicare supplementary health insurance. The Senator from Kansas is hopeful that the final legislation agreed upon will assist us in these efforts.

Mr. HAYAKAWA. Mr. President, I too, have been most interested in this amendment and am happy that the distinguished Senator from Kansas (Mr. DOLE) has been able to work this out with the junior Senator from Montana.

I believe this is a good compromise of the two respective positions and it appears that this will resolve the issue satisfactorily. I cannot emphasize enough my concern over the Government's at-

tempt to interfere in the prerogatives and responsibilities of the States. Yet I am concerned too with the protection of consumers from irregular practices. I believe that the compromise worked out by the Senator from Kansas and the junior Senator from Montana adequately meets both my concerns.

I thank the distinguished ranking minority member of the committee for his contribution to this important question.

Mr. President, I am prepared to yield back the remainder of my time on my amendment.

Mr. BAUCUS. Mr. President, I rise to state my agreement with the Senator from Kansas, and to say that I was remiss in not stating earlier that the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CULVER), and the Senator from Kansas were really pioneers here. I am a latecomer to the effort to solve this problem.

I wanted to make sure that those in earshot and those who read the RECORD know that Senator CHILES is one of the foremost pioneers. I thank the Senator for his efforts.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 939) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The amendment (No. 938) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that Senator EXON be added as a cosponsor to the Dole amendment.

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

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3236, which the clerk will report.

The second assistant legislative clerk read as follows:

A bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1646

The ACTING PRESIDENT pro tempore. The pending question is on agree-

ing to amendment No. 1646 proposed by the Senator from New York (Mr. JAVITS).

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Mr. JAVITS. I yield myself 10 minutes, Mr. President.

Mr. President, I think if Members would hopefully be listening to this debate now, we can very easily explain exactly what we are doing.

What I am trying to do, Mr. President, is to marginally restore the family disability payments for certain brackets of people based upon their prior earnings. The brackets in question are average indexed monthly earnings (AIME) as defined according to law from approximately $600 to $1,000.

The reason for my seeking to change this is that, as one analyzes the figures—I put the relevant table into the RECORD last night—one will find that those people take twice the replacement income percentage reduction that others are asked to take once we get over the very lowest brackets, which are not germane because of their present high replacement rates. Those lowest brackets are average earnings of $135 a month up to and including $300 a month.

The AIME brackets from $400 to $600 and the brackets from $1,100 to $1,700 get about the same treatment under both the committee bill and my amendment. But the brackets from $600 to $1,000 take a double beating. That is, they are reduced twice as much as the percentage of the others.

That is an inequity. There is not an adequately persuasive reason for it. I am seeking to correct the inequity, as I say, by somewhat restoring those brackets so that they take the same kind of a cut which the other brackets take, which is only fair.

The principal argument made against it by HEW and by our very distinguished and very able colleague, Senator LONG, is, "Well, it costs money."

I realize it costs money, Mr. President. It costs, for 5 years, $153 million. That is a lot of money. But when we compare it to what we are trying to do and how much we are doing, we find it is not a great deal of money for this reason: The committee bill seeks to cut these disability payments, for the 5-year period, $909 million. My amendment would reduce that cut from $909 million to $756 million.

The Senate has indicated that it is not disinterested. On the contrary, it is very interested in the possibility of some restoration. There is a real feeling expressed here that the proposed cut is too deep. That was shown last night by a tie vote on Senator METZENBAUM's amendment which would have, if passed, cut, not as mine does, $153 million, but rather $805 million, and would have reduced the amount of the aggregate reduction by the Finance Committee from $909 million to $104 million, deducting $805 million.

Compare that, which half of the Senate went for, including me, with what I am trying to do, which reduces what the committee cuts from $909 million to $756 million, a difference of $153 million. As compared with Senator METZENBAUM's amendment, it is a savings of $652 million in the 5-year period.

I submit, Mr. President, first, that there is an inequity here, that the middle class, which we are always talking about, earning $600 to $1,000 average earnings (AIME) on which the disability payment is based, is being hit harder than any other group, including both the lower group, up to $600 a month, and the higher group, from $1,100 to $1,700 a month.

That seems very unfair and completely arbitrary.

Second, the amount of the reduction which is being made by the Committee on Finance—which, remember, still will have to be negotiated with the other body—is not materially impaired. It is reduced from $909 million in the Finance Committee bill to $756 million for the 5-year period. Having been around here for a day or two, just as Senator LONG has, we know that we shall work out some kind of compromise with the House. Senator BELLMON, last night, tried to meet the House figure, which is a small matter of adding about another $500 million to the cut made by the Committee on Finance, and the Senate voted him down very decisively.

On the other hand, in seeking to restore practically the whole Senate cut, all but $104 million, the Senate was evenly divided.

That seems to indicate, certainly, an interest here among Senators—knowing the situation of their constituents—in some kind of fair compromise. I am not trying to split it 50–50 or anything remotely like that, and I am not trying to do it arbitrarily, which is very often done around here. We shall let them do that in conference.

What I am showing to my colleague—and the matter has not been raised before—is a real inequity. Perhaps the people who drafted the Finance Committee's ideas had a figure in mind that they wanted to reduce these aggregate payments by and wanted to find some way to do it. I do not think they found a totally fair way to do it. I think we have found a fair way. To have everybody, including the much-talked-about middle class—to wit, with earning between $600 to $1,000 a month average—get the same break and the same kind of cut in percentage that everybody else is getting. That does equity and does not materially impair the amount of the reduction which the Committee on Finance is making.

Mr. President, I believe, for those reasons, that, as a matter of equity and nondiscrimination and in order to preserve, as far as we can, the money savings which are made by the Committee on Finance, this amount should be adopted.

I reserve the remainder of my time.

Mr. LONG. Mr. President, I yield myself 8 minutes.

Mr. President, the Senator from New York said he hopes people are listening in their offices; I hope everybody is listening, wherever they may be, because the word should go out—and I hope the enterprising media people who are here, especially those able representatives of the press, will send out the word—that the Senate has embarked on a spending orgy. The Senate has completely disregarded its previous commitment to try to balance the budget and it has gone wild to try to take these out-of-control spending programs and make them still further out of control.

Mr. President, we on the Committee on Finance were assigned our share of the burden of trying to balance the budget, trying to stop some of the needless spending in Government so that we could keep this Government from going so deeply into debt, because we know that is one of the big items contributing to inflation that the people of this Nation are suffering, namely the great big Federal deficit we have been sustaining.

We on the Finance Committee, Mr. President, have tried to do our part. We brought a bill forth, as we were required to do under the budget resolution, to make savings and reduce waste. In the program for aid to families with dependent children, we have proposed savings as part of another bill amendments relating to child support and other areas involved and so far, we have been somewhat successful. We have passed our amendments through the Senate.

We have reported out a bill, Mr. President, which is on the calendar, to tighten up on some of the ripoffs on the unemployment compensation program. That bill will help the budget.

Then we reported this bill to the calendar, Mr. President, on disability insurance. The House courageously—and I believe in answer to the public will, because every Member over there has to run for office this very year—has sent us a bill. Imagine; those courageous Members of the House brought a bill before that body and sent it here, this very bill, to reduce the spending in this disability area by $2.7 billion over a 5-year period, a saving of about $600 million a year on the average over that period.

They did that because, Mr. President, of all the big spending programs, the very big spending programs, this is the one that is most out of control. Secretary Califano courageously faced up to it and did what he could administratively. Secretary Harris is doing what she can do to limit the unintended spending in this area.

Mr. President, this program was sup-

posed to cost one-half of 1 percent of payroll and it is costing 2 percent of payroll. It is costing almost $16 billion a year, because we have four times as many people on the rolls as we anticipated. That is because, in administering the program, as a matter of compassion, a great number of people have been allowed on the rolls who are not totally and permanently disabled—contrary to what was originally intended by Congress when Senator Walter George offered that amendment out here on the floor, some years back, when I was junior Senator from Louisiana. Well-intentioned people, their humanitarian instincts coming to the fore, have seen fit to find a lot of people disabled on a total and permanent basis when, actually, those are handicapped and partially disabled, but not disabled in the sense that Congress originally intended when it passed the program. So we are trying to get this matter under control.

Yesterday, the Senate voted to overrule its Presiding Officer, to run roughshod over its Parliamentarian, to break through a unanimous-consent agreement to vote on an amendment so that some people need have no waiting period any longer to get on the disability rolls.

You wonder what in the world the Senate is doing. A unanimous-consent agreement is a solemn compact among Senators that only the matters in that bill are going to be considered, and the Senate just ran roughshod over its Parliamentarian and a fine, respected Presiding Officer (Mr. STEVENSON), in order to break its own unanimous-consent agreement and rule that something was germane that the Parliamentarian properly advised was not germane, an amendment that reduced the waiting time in the law. That will cost $3 billion when fully implemented, because once you start calling off the waiting period for some disabled persons, there is no way you can tell the rest of the totally and permanently disabled that some will have to wait while others can go right up and get their checks immediately.

It was only by a tie vote, Mr. President, that we succeeded in keeping the Senate from voting to say that the payments under disability would be every bit as much as 100 percent of what the person was making when working. The payments under disability are not taxable and a person, sitting there at home, does not have to buy new clothes and does not have transportation expenses. So it would have been like paying 130 percent of what the man had been making to pay 100 percent of wages when he is disabled and does not have to go to work or pay taxes on the income.

Most of these people are also covered for major medical insurance under medicare, so that takes care of the medical expenses. So when one pays the whole salary, tax-free, it is like paying about 130 percent of what he would have been making otherwise.

Mr. President, there is another item of responsibility of the Finance Committee in connection with the budget resolution. We are going to have to recommend that revenue sharing to the States be reduced and we expect to offer this amendment to the countercyclical revenue sharing bill. It may be that the Senate is just in no mood to think about reducing excessive spending. It may be that the Senate is just in no mood to cut back on something that could be reduced somewhat. It may be that the Senate is just going to insist on more big spending ideas, busting the budget and running this Nation very deeply into debt, over a trillion dollars in this one fiscal year, for all I know. But, Mr. President, we do look for some signals and some signs of what the Senate wants to do.

I hope, Mr. President, that the time is beginning to arrive when Senators will have a return of fiscal conscience and begin to think in terms of fighting inflation and balancing the budget, because the people in this Nation are interested in that, even if Senators are not.

Mr. President, the Senator from New York would like to help middle-income people and I applaud him for his noble desire to do that. On the other hand, Mr. President, the Finance Committee bill makes all the sense in the world. In this area in which the Senate would like to legislate, there is what would be considered a bulge in the benefit structure for family benefits.

Strangely, under the existing law, the middle-income people do better, in relative terms, than do the low-income people, or those further up the ladder, when comparing family benefits to a worker's basic benefits.

So when the Senate Finance Committee undertook to look at the bill, we said, we think the desirability benefits should not be more than 85 percent of what the predictability earnings were. Then we said that the family should not receive more than 60 percent above the worker's basic benefit.

That is a consistent, logical, equitable, fair way to determine the benefits. It is more fair, more proper, more just, and more equitable than the existing law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. I yield myself 2 additional minutes.

So, Mr. President, the Senator seeks to restore the pattern that existed prior to the Senate bill. In doing so, he would maintain an inequity that exists in the law which should be corrected.

The Senate level of benefits is fairer. If we are going to pay this higher level of benefits to those in the middle brackets, how would we excuse giving them a better break than the low-income people?

If one group gets a better break under the formula than another group, should it not be logical that it be the poor, or near poor, rather than the middle income? Logically, it should.

Mr. President, we have a good formula. It was carefully considered. It would save more than what the Senator is suggesting. This amendment would cost $153 million more over the next 5 years than the bill recommended by the committee.

Mr. President, where the committee came out with a bill that would be a revenue gainer over the next 5 years of about $914 million, this amendment, when added to the Bayh amendment which has already been adopted, would convert this bill from one which would have gained revenue for the Government, by the overhaul and the various changes made in the law, to one that loses revenue for the Government by about $79 million over that same period of time.

I hope, Mr. President, the Senate will give some sympathy and some encouragement to those committees which are trying to obey the budget resolution, trying to obey that resolution the Senate voted for.

I myself offered the amendment to get us to a balanced budget. I was not even the one who started it. Senator DOLE, the great Republican leader from Kansas, offered an amendment that said we were going to balance the budget. So the Senator from Louisiana said, "Fine, let us get with it," and I offered an amendment to the Dole amendment saying, "Bring us a balanced budget."

I would hate ot think, having voted to say that we want a balanced budget, that the Senate is now going to bust the budget with these social welfare programs, because we know we will have to have to spend money on such other things as more military equipment, Mr. President.

It just seems to me, if we want to be responsible, we should stay with the formula the Finance Committee proposes, because it is a good formula, makes good logical sense. There are no inequities in it. In fact, it is a better formula than that which exsits in the present law.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, Senator LONG is always a joy to listen to until we begin to analyze his arguments.

I listened very carefully to all his arguments, Mr. President. I heard a denunciation of the Bayh amendment, which carried. I had nothing to do with that, particularly. I did not propose it. And the Metzenbaum amendment, which almost carried. And Senator DOLE's brilliance as Republican leader, to which I subscribe.

But I have yet to hear an answer to the argument made by me, Mr. President, as to why the amendment should be passed in common equity, and why it far from financially wrecks this bill.

I am not looking for a better break in relation to present benefit levels for these middle-income recipients of disability; only for an even break.

I think the appropriate figures showing the difference from present law is the most eloquent testimony as to why, in common elementary fairness, this amendment ought to be carried.

Under the first three brackets, namely, the working poor—I am all for them—where they get higher benefits than prior earnings, they are irrelevant for comparisons.

For $135 per month AIME, the present

law will give them 136 percent of their average earnings. But, under the Finance Committee bill, they would get 90 percent. I let that stand.

Similarly, for $200 per month AIME, they now get 132 percent. Finance cuts it to 88 percent. Again, I do not change that.

Now, for $300 a month AIME, they would get 85 percent under the Finance bill. Today, they get 104 percent. Again, I do not change it.

But let us go down here to $600. If they had average earnings of $600 a month, at present they get 88 percent of earnings. The Finance Committee is going to give 81 percent of the earnings.

Let us say that is a difference in round figures of 6 percent. But, for the very next bracket, $700 a month, they get 88 percent of average earnings, but the Finance Committee gives 77 percent, or an 11-percent cut, Mr. President.

So we go on down the line. The same is true for $800. The same is true for $900. Then, to a lesser degree, for $1,000 average earnings a month.

That is what I am complaining about. That is where the inequity occurs, and that is where it ought to be corrected.

Under my amendment, it is corrected; and the difference from present law comes down to 6 percent, just like it does for the other brackets.

Mr. President, what Senator LONG did not tell us is what about those "rich," those who earned an average of $1,100 to $1,700 a month? Their cut is only about 6 percent under the committee bill.

What about the people who earned less than that? Their cut is twice that, at certain levels.

That is what I am complaining about and correcting. That is what I call an even break. Everybody takes the same rap when there is difficulty, as there is today.

I recognize it. I recognize it in my amendment, and I recognize it as an equity proposition.

The distinguished Senator speaks of a spending orgy, Mr. President.

We are elevated by the people to this high office to use our heads and keep cool. There is a lot of preachment on this floor about going to get them, for this, that, and the other things, even about war, Mr. President, and that sometimes sways an audience.

But, Mr. President, if we are just an audience, we all ought to be fired.

Mr. President, we are supposed to see the equities and to realize what is going on.

Senator LONG cannot convince us why—and if he can, I am deeply disappointed in a body in which I have now served for 24 years—this amendment "will break the budget."

We cannot drag every cow in here from every other bill and every other monetary matter to try to defeat this amendment. There is no use shooting a cannon at gnats, Mr. President.

It is a matter of elementary fairness. The Senate already has evidenced its view that it is sympathetic to something being done. This seems to me to be a matter of elementary fairness, as I have just pointed out, based on the fact that the middle-income people—not the higher and not the lower—are being asked to take double the cut that the others are, the higher and the lower. I do not think that is fair, and I believe it should be corrected.

I ask unanimous consent that the names of Senator RIBICOFF and Senator METZENBAUM be added as cosponsors of my amendment.

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

Mr. LONG. Mr. President, the Senator said that the Bayh amendment has nothing to do with the argument I made. The Senator voted for the Bayh amendment. What I am saying is that Senators who voted for the Bayh amendment should keep in mind that they have started us down a road on which there is no turning back.

You cannot have some of these totally and permanently disabled people required to wait the 5 months to get the benefits and then have others who do not have to wait the 5 months, when those people are totally and permanently disabled, and they are critical cases. You cannot have it both ways.

When the Senate voted for that, it added another spending aspect to this program which is going to cost almost as much as the whole program was supposed to cost. The whole program should not be costing more than $4 billion, as intended by Congress. That one proposal will eventually lead to a $3 billion increase in the program.

I would think that Senators having voted for it, at some point, their appetite for spending would begin to subside. I hope so.

Senator JAVITS, the great Senator from New York, and the Senator from Louisiana are not differing at all about what the basic benefit should be, and his amendment does not have anything to do with that. We are not arguing about that here. What we are debating here is a provision that the Finance Committee recommended, which says that the family benefits should not be more than 160 percent of what the basic benefit is. So that, if you look at the basic benefit, about which we are not arguing at this moment, there should be a limit on what the family benefit would be, and that should not be more than 60 percent above the basic benefit. That type of limitation exists in other areas of the law, and it makes sense.

The House did not go that far. The House said that the family benefit should not be more than 50 percent above the basic benefit. So the Finance Committee is substantially more liberal in its recommendation than was the House of Representatives, where every Member will have to run for office this year. They said it should not be more than 50 percent above the basic benefit.

The logic of the Senator's argument must rely upon an inequity that exists in present law. The Senator wants to build on that inequity, and the Senate Finance Committee said there is no point in doing that.

This does not affect anybody who is on the rolls today. Not one soul on the rolls will be cut because of this recommendation by the Finance Committee. This will apply only to people who begin getting checks in the future.

It is a matter of saying that here is an inequity that does not make any sense. None of these people, obviously, is envied by any of us; because they have a disability.

On the other hand, as between those who would be benefited, and those who would not be benefited, this would increase the size of additional benefits for dependents in the case of middle-income workers, but would not provide any increase for the lower income group, and that does not make sense.

The Senate Finance Committee said that the benefit for the family should not exceed the basic benefit by more than 60 percent. It is the same pattern the House followed when they said it should not exceed it by more than 50 percent. We have been generous in this area.

I hope very much that the Senate will sustain the committee's recommendation and that it will not vote for the amendment by the Senator from New York.

Mr. JAVITS. I yield myself 1 minute.

Mr. President, I have yet to hear the justification for why the income people in the middle should take the rap for the income people at the top. That is the whole essence of this case.

I deeply believe that the Senate should right this inequity and then let the committees in conference work out what they are going to keep in, what they are going to put out, and what the aggregate saving will be. There is a lot of yardage there. This inequity should not persist.

Mr. President, I ask unanimous consent that the name of the Senator from California (Mr. CRANSTON) be added as a cosponsor of the amendment.

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

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD a chart that shows how the benefits would be computed.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Basic monthly benefit of a disabled worker	Maximum additional benefits for dependents					
	Present law		Committee bill		Javits amendmend	
	Amount	Percent	Amount	Percent	Amount	Percent
$283	$184	65	$169	60	$169	60
$305	221	72	182	60	195	64
$369	317	86	221	60	270	73
$395	325	82	237	60	275	70
$433	339	78	260	60	282	65
$487	366	75	292	60	292	60

Mr. LONG. Mr. President, I point out how this works. If we look at the family benefits under the committee bill—what the family benefit is, compared to what the basic benefit is, no matter whether one is at the $283 basic monthly benefit or the $187 basic disability benefit, what the family receives is, in all cases, 60 percent more than the basic benefit for the worker.

Under the Javits amendment, it would be, at the lower level, 60 percent, then 64 percent, then 73 percent, then 70 percent, then 65 percent, and then 60 percent, as shown in the chart.

I would not care to try to go out among people and try to explain to them why one worker's family in the middle-income bracket gets 73 percent above the basic benefit and the family of a man who is making much less than that gets only 60 percent above the basic benefit. I would not want to try to explain that to the poor and explain why some workers' families get as much as 73 percent and others as little as 60 percent above the basic benefit.

It makes better sense to me to agree on one pattern of benefits, one schedule of benefits, that is logically based on what the worker was making in the past, and to show him a schedule by which he can compute it for himself and by which it works out the same for everybody.

If you are not going to pay them all the same relative level of benefits, the only logical way to do it would be to pay more benefits to the people on the bottom, not those in the middle; and the Senator would pay his increase in benefits to those in the middle. It does not make any sense. We have a better schedule in the committee bill.

The only logic of it would be that that bulge, that inconsistency, that inequity is in present law, and we say that it should be wiped out. That change would not apply to anybody getting a check now; nobody's check will be cut. It is only for those who go on the rolls in the future. We should wipe out that inconsistency and inequity. It costs a great deal of money to maintain that inconsistency and inequity in the law.

Mr. JAVITS. Mr. President, I doubt that Senator LONG and I are going to persuade each other. I hope I can persuade the Senate.

I reserve the remainder of my time.

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. LONG. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, we are in about the same position we were in yesterday, in discussing the Metzenbaum amendment, which was rejected by a tie vote—47 to 47, as the Senator from Kansas recalls.

I certainly appreciate the efforts of the distinguished Senator from New York to provide a compromise between the Metzenbaum approach and the Bellmon approach to the family benefit limit. I know of no one in the Senate who is more concerned about this program and the benefit levels than is the Senator from New York, and he was so concerned long before the Senator from Kansas became a Member of the Senate.

As I indicated yesterday, I tried to provide a looser cap in the Finance committee, but I did not have the votes. Efforts were made to tighten the cap as well, but there were not the votes for that. So, after considerable discussion, and at the suggestion of the chairman, a compromise was reached.

I suggest that the table to which the Senator from Louisiana just referred does indicate the need to oppose the Javits amendment. I understand the concern of Senator JAVITS, but I still believe that the situation we came up with in the committee was a fair compromise. We probably could spend hours trying to massage the formula, but there appears to be no particular reason for this bulge in the present law, and we just tried to smooth that out.

It is true that middle-class families are having their benefits cut more than some others. But that reason is apparent in the table which has been made part of the RECORD, because they are treated more favorably—and I use that term with reference to all others—than some other families under current law.

We still have this monitoring provision in the bill, and if we learn later, after some experience with the program that there should be some changes, I am certain the Finance Committee and the Social Security Administration will work together to come up with a more appropriate formula.

I suggest that it is not easy to make any cuts in any benefit anyone receives from any Federal program. This is one of those very difficult choices but there has been, I think, a reasonable effort made to find the best solution and I support the committee position.

Mr. JAVITS. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. JAVITS. I yield myself 2 minutes.

Mr. President, I appreciate Senator DOLE's argument, and I appreciate Senator LONG's argument. I think we have been together for enough time to understand each other on what part is hyperbole and that is true of me as of them and every politician.

Mr. President, I look across the table of numbers which I put in on the maximum family benefit. These are official figures: they are not mine. And look at the $700. AIME figure. That person under present law gets $613 a month, or 88 percent of his average earnings. The Finance Committee gives that person $538 a month or 77 percent of his present earnings, an 11-percent cut. My amendment gives that same person $569 a month, $30 more, and gives him 81 percent of his average earnings.

I look down at the $1,100 bracket. He is getting $814.10 a month now, 74 percent of his average earnings. The Finance Committee is going to give him 68 percent or $743.40.

Mr. President, I do not change that. So that fellow gets cut 6 percent. The fellow who is earning $700 a month gets cut 11 percent. Why? That is what I am trying to correct. That is why I have proposed this amendment.

Mr. LONG. Mr. President, I yield myself such time as I may require.

Mr. President, no one gets cut at all. Everyone who is on the roll will continue to get what he is getting. If he is getting something because someone made an error he still gets it. If he is getting something because Congress made an error he still gets it. No one takes a cut.

All we say is that for the future we write a law that makes a lot better sense than the old law, and by writing a law that makes a lot better sense we take some ripoffs out of the law in some cases. We make the law more uniform. We make it more fair. We try to compute it based on what the average index monthly earnings are and then having computed what the basic benefit is we then say that the family benefit will be 60 percent above the basic benefit.

It is consistent all up and down the line. That is for the new people coming on the rolls.

No one gets cut. It is just that we had a formula that is faulty. It has inequities in it and it is unfair. It is unfair to the people who are making less than those middle-income people. So what we say is that we will have a system that is fair, consistent, uniform, and that is how we will compute the benefit for the future.

Those on the rolls will keep getting what they are getting. If it were an inequity they will get the benefit of it or get hurt by it as the case may be.

For the future we are going to try to be more uniform and fair, and in doing so we will save money unless we agree to the Javits amendment.

The Senator's argument is no better than existing law because he is basing it on the theory that the inequity, the inconsistency in existing law should be maintained. Implicit in that is the theory that the bulge which favors this particular group should be maintained for the future. It does not make any good sense. Therefore, the amendment should not be agreed to.

Mr. JAVITS. Mr. President, 1 additional minute.

Mr. President, I just gave an example of the $700 average earnings individual who gets hit hard prospectively, of course, prospectively. I do not think any of us misunderstood that.

Let us look at the $600 fellow. The $600 fellow is getting $526 a month; that is 88 percent of his average earnings. The Finance Committee is going to give him $487.40. That is 6 percent less.

I am not complaining about all those adjustments. I am complaining about the particular change from present law. What I am complaining about is the way it is changed. I think it is wrong. I think it is inequitable, and I think it is discriminatory.

Mr. LONG. Mr. President, keep in mind that the man is not going to get cut at all. He is going to continue to get exactly what he is getting now. When new people come on the roll they are going to have a consistent formula rather than an inconsistent formula. When we are talking about the amount of money they get, keep in mind they do not pay any

taxes on this money. They pay no social security tax and pay no income tax on the money. They have no work expenses while they are out of work. So they do not have to buy as much clothes as they would have to have. They do not have as much transportation expense. And they also have medicare coverage available to them when they are not on these rolls and are on the disability rolls. So they are getting a lot of benefits that they do not have when they are working.

I believe we have made our position clear. No one gets cut. We simply have a consistent formula for the future. We wipe out an inequity that never did make any sense. In doing so, we save quite a bit of money. We should be doing those kind of things all through the social welfare programs where inequities or inconsistencies or illogical things exist that do not make any sense. We could save the taxpayers billions of dollars a year, and we will do that if the Senate wants us to do it. If the Senate does not want us to do it it can keep adopting amendments as this where every time the House committee and Senate committee comes up and says here is something that does not make any sense, here is where we can save $150 million or $200 million at a whack. If they want to keep voting us down a while we will have to give up and just forgo our efforts to try to contain spending, balance the budget, reform by spending less rather than reform by spending more.

But I hope, Mr. President, that the Senate will see that the committee has considered the matter and it has done the best it could to work out something in the Nation's interest, and I hope that the committee will be sustained and, and, therefore, the amendment will not be agreed to.

Mr. JAVITS. Mr. President, just to conclude the debate, we are now in the argument that this is breaking the budget and is going to bankrupt the United States and probably change our form of government and cause the Soviet Union to run us over instead of Afghanistan.

Mr. President, I am ready to vote. I think the Senate should vote this elementary fairness, and I am ready to yield back the remainder of my time.

● Mr. RIBICOFF. Mr. President, I support the amendment offered by the distinguished senior Senator from New York. The committee's cap disproportionately reduces the replacement rates of middle- and middle-to-low-income people. The Javits amendment is a very narrowly targeted amendment that alleviates this inequity.

In 1980, the Javits amendment will cost only $4 million. Over the next 5 years the total cost resulting from the Javits amendment is $153 million.

But more important than costs, caps and formulas, we are talking about benefits to people—disabled people who were once working in the mainstream of the U.S. economy. These are people who paid their income and social security taxes but now because of their disabilities they are no longer able to work.

The committee's bill inequitably cuts the benefits of these middle-income people.

The Javits amendment corrects this inequity at a very low cost, and I urge my colleagues to support this amendment.●

● Mr. CRANSTON. Mr. President, I have outlined my objections to section 101 of H.R. 3236 during consideration of the Metzenbaum amendment to this bill. As I stated then, there is a group of individuals which is receiving benefits at a rate in excess of their average lifetime earnings, but why is it necessary to reduce drastically the benefits for all post-1968 disability claimants after January 1, 1980, when all of these people are not part of the problem.

I believe that Senator JAVITS has done a tremendous job of fine tuning the formula proposed by the Finance Committee, and am pleased to be a cosponsor of his amendment.

At the Finance Committee hearings on H.R. 3236 and H.R. 3234, Social Security Commissioner Ross presented data showing predisability income replacement levels under current law, the House-passed formula, the advisory council formula, and others. From those data, and data prepared by the Paralyzed Veterans of America in its testimony it is clear that only individuals and families with average indexed monthly incomes at or below $250—for individuals—and $300—for families—could possibly receive benefits in excess of their average indexed monthly incomes. The Finance Committee bill formula, although it concentrates so-called reform at the lower end of the benefit structure, also would have the effect of drastically reducing benefits for workers in the middle ranges of the benefit scale, and only minimally affecting those at the high, and lower, middle portions of the scale.

The Javits amendment would reduce the disproportionate burden placed on the shoulders of the middle group. Yet where the problem is the largest, the Finance Committee formula would continue to apply.

Mr. President, I believe that this compromise represents a very reasonable response to the concerns expressed by the Finance Committee, and urge the Senate to adopt the Javits amendment. I congratulate my friend from New York for his leadership in devising and proposing this compromise.●

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Tennessee (Mr. SASSER), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Colorado (Mr. HART) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. DURKIN), and the Senator from New Jersey (Mr. WILLIAMS), would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. PRYOR). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 50, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—34

Baucus	Hatfield	Pryor
Bayh	Heinz	Randolph
Biden	Huddleston	Ribicoff
Boschwitz	Jackson	Riegle
Bradley	Javits	Sarbanes
Bumpers	Leahy	Stafford
Burdick	Levin	Stevenson
Cranston	Magnuson	Stone
Culver	Metzenbaum	Tsongas
DeConcini	Moynihan	Weicker
Durenberger	Nelson	
Ford	Packwood	

NAYS—50

Armstrong	Glenn	Nunn
Bellmon	Hatch	Percy
Bentsen	Hayakawa	Pressler
Boren	Heflin	Proxmire
Byrd, Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Hollings	Schmitt
Cannon	Humphrey	Schweiker
Chiles	Inouye	Simpson
Church	Jepsen	Stennis
Cohen	Johnston	Stevens
Danforth	Kassebaum	Stewart
Dole	Laxalt	Talmadge
Domenici	Long	Thurmond
Eagleton	McClure	Tower
Exon	Melcher	Wallop
Garn	Morgan	Warner
	Muskie	Zorinsky

NOT VOTING—16

Baker	Hart	Pell
Chafee	Kennedy	Sasser
Cochran	Lugar	Williams
Durkin	Mathias	Young
Goldwater	Matsunaga	
Gravel	McGovern	

So Mr. JAVITS' amendment (No. 1646) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

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

The PRESIDING OFFICER. On whose time will the quorum be charged?

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

The PRESIDING OFFICER. The request has been withdrawn.

The Chair recognizes the Senator from South Carolina (Mr. THURMOND).

UP AMENDMENT NO. 941

(Purpose: Relating to inclusion in wages of FICA taxes paid by small business employers, State and local governments, and nonprofit organizations)

Mr. THURMOND. Mr. President, I send an amendment to the desk for myself and Senators HELMS, HATCH, and ARMSTRONG, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself, Mr. HELMS, Mr. HATCH, Mr. ARMSTRONG, Mr. DOLE, and Mr. PRESSLER proposes an unprinted amendment numbered 941.

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

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

The amendment is as follows:

On page 106, strike out lines 9 through 21 and insert in lieu thereof the following:

SEC. 507. (a) Section 209(f) of the Social Security Act is amended to read as follows:

"(f) The payment by an employer (without education from the remuneration of the employee) (1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 (A) for wages paid for domestic service in a private home of the employer, or (B) if such employer is a 'small business concern' as that term is employed in the administration of section 7(a) of the Small Businss Act (relating to business loans), or (C) if such employer is a State or political subdivision thereof, or (D) if such employer is a private nonprofit organization, which is exempt from income tax under section 501(a) of the Internal Revenue Code of 1954, or (2) of any payment required from an employee under a State unemployment compensation law."

(b) Section 3121(a)(6) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

Mr. THURMOND. Mr. President, this amendment would modify section 507 of the pending bill, pertaining to the computation of social security (FICA) taxes. The amendment is three-pronged, providing that employers who are small business concerns, State or local governments, or nonprofit entities may elect to pay both employer and employee shares of the FICA tax without being penalized for so doing by having to pay a greater tax.

Section 507 of the pending bill, to which this amendment is directed, makes a major change in social security tax law by altering a policy that has been in effect since the inception of the social security program some 40 years ago. It concerns us greatly that this change is being proposed by the Finance Committee without the benefit of any State hearings, at which the groups affected could testify as to the adverse impacts of this recommended modification. Furthermore, while I understand and share the concern that the members of the Finance Committee have for maintaining the solvency of the social security trust fund, the more I have studied this matter, the stronger is my conviction that the proposed change is both ill-conceived and also likely to be counterproductive on these particular matters.

THE FICA TAX OPTION

Mr. President, under the social security law, employers and employees share equally in the FICA tax obligation. At the same time, employers have always had the option of paying both the employer and employee portions of the tax from the employer's own funds, without any withholding from the employee's gross wages. Prior to the 1977 amendments to the Social Security Act, very few employers had elected to bear the entire FICA tax burden. However, with the substantial tax increase put into effect by the 1977 amendments, more and more employers have discovered and taken advantage of the provision in the law which allows employers to assume the entire FICA tax obligation.

While the actual computations are a bit complicated, basically the procedure calls for employees to forego a portion of a scheduled salary increase, or reduce their gross wage, by an amount equal to the FICA tax that otherwise would be withheld from the employee's gross pay. Workers generally gain an immediate benefit in slightly higher take-home pay, because, under the progressive income tax rates, less State and Federal income tax is required to be paid. Employers also realize a payroll cost savings of approximately 6 percent, because the social security tax is based on a lower level of gross pay.

In other words, both employer and employee can receive a significant financial benefit when they jointly agree for the employer to assume the entire FICA tax obligation, under a procedure similar to that which I just described.

Mr. President, this procedure is now and always has been perfectly legal. It is not a devious method of dodging taxes. It is a legitimate, smart business practice by which employers and employees who so choose can reduce their social security tax burden. Mr. President, I ask unanimous consent to include in the RECORD at this point an excerpt from the New York Times of April 10, 1979, which describes the operation and benefits of this alternative FICA tax procedure, and also a table illustrating the procedure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY: EASING THE BITE

Now that workers and employers alike have digested the latest increase in the Social Security tax, word comes that they may be a way to reduce the bite of this levy.

The solution is to have the employer pay the worker's share of the so-called FICA tax as well as its own, instead of splitting the cost. Although it sounds as if this approach would be more expensive for employers, it actually saves them money because it avoids the current situation in which employers wind up paying FICA tax on FICA tax. FICA stands for Federal Insurance Contributions Act.

Despite the appeal of such a payroll system, it has not been widely embraced by business.

"There's a long-standing provision in the Social Security Act that permits the tax to be computed in this fashion, but very few employers have implemented it, mainly because no one knew anything about it," said Michael F. Klein, a partner with the accounting concern of Price Waterhouse & Company.

Traditionally, he said, most companies have computed the Social Security tax on the basis of the employee's gross salary. But since the gross salary includes the Social Security tax to be paid by the employee (and withheld by the employer), this approach results in both the employer and the employee paying a tax on a tax.

An alternate plan, which Price Waterhouse calls a "net salary arrangement," would have the employer pay the worker's tax. The result is that the Social Security tax is simply based on the employee's salary "net" of any FICA levy. The employee's take-home pay remains the same, while his taxable income declines slightly, and the employer can reap dramatic tax savings.

Mr. Klein cites the case of a $10,000-a-year worker whose employer switches to a net pay approach. The employee's taxable income would drop by $38 a year even though his take-home pay remains constant, and the company can pare its tax expense by $78.

The tax savings for a large employer can be enormous. Los Angeles County, for example, is considering a plan prepared by the Management Improvement Corporation of America that is said to have the potential of saving $5.9 million in FICA taxes during the first year of operation.

FICA ILLUSTRATION

[Based on married employee, 4 dependents]

	Employee pays ½, employer pays ½	Employer pays full cost
Weekly salary	$300.00	$281.61
Employee FICA [1]	18.39	0
Employer FICA	18.39	34.53
Federal income tax [2]	30.90	28.80
State income tax	9.58	9.50
Employee take-home pay	241.13	243.31
Total employer cost	318.39	316.14

[1] In order to initiate the FICA plan the employee's gross salary is reduced by 6.13 percent. This is offset by the employer paying both halves of FICA.

[2] For computing income tax the value of the employer-paid FICA (½ of the $34.53) must be added back to salary as a taxable fringe benefit. Thus taxes are computed on the basis of $298.88 ($281.61+17.27).

Based on a firm with 100 employees in the above situation: The employer's annual savings will be $11,700. The employees' total annual increase in take-home pay will be $11,136. This plan . . . can provide additional operating capital for business. This plan . . . can provide the worker a benefit in his battle against inflation.

THE FINANCE COMMITTEE AMENDMENT

Mr. THURMOND. Mr. President, because this alternative FICA tax procedure results in slightly less tax money paid into the social security trust fund, the Society Security Administration has convinced the Finance Committee to recommend to the Senate that this long-standing provision be drastically altered. The committee, in section 507 of the pending bill, proposes to make financially unattractive the option of employer-payment of all FICA tax.

The committee recommends that Congress simply enlarge the definition of "employee compensation" (wages) subject to FICA tax, so that it includes any portion of the tax paid for the employee by the employer. This will, in effect, result in a levy of FICA tax on FICA tax. In dollars and cents terms, it will re-

sult in still another social security tax increase on employers who are using the alternative procedure.

Mr. President, the idea of treating the FICA tax paid for wage earners by their employers as part of the total taxable compensation of the employee is a novel idea in social security tax law. There is no debate over the fact that such payments are includable in the employee's gross income for both Federal and State income tax purposes.

However, when the original Social Security Act was written in 1939, such payments were specifically excluded from the definition of compensation for FICA tax purposes. The legislative history of this issue suggests that the decision to exclude such employer FICA tax payments from FICA taxable compensation was a deliberate one, because Congress also chose to exclude employer payments for employee pension or annuity plans, sick pay, life or health insurance, death benefits, unemployment compensation tax, and other such employee benefits from the FICA tax. Simply because employers have only recently started taking advantage of this option in significant numbers is not sufficient reason, in our opinion, to alter this long-standing policy, especially without the benefit of any Senate hearings.

Just a few days ago, on January 14, the U.S. Supreme Court let stand a decision by the U.S. Court of Claims that held meals regularly given to workers should not be considered "wages" subject to social security taxes. The logic of that court ruling is readily applicable here. Why should employer payments of FICA taxes for their workers be treated as a part of the workers' wages for FICA tax purposes? The concept is unsound, as well as unfair.

CONCERNS OF SMALL BUSINESS

Mr. President, as presently written, section 507 will be especially costly and detrimental to small business concerns which are presently paying both portions of the FICA tax, or are planning to adopt this procedure. The amendment we are offering would exempt small business concerns, as that term is employed in the Small Business Act for business loan purposes, from the changes made by the bill. The reasons for a "small business exemption" should be readily apparent. The 6- to 7-percent savings which a small business concern can achieve by electing the alternative FICA tax method may well be the margin of survival to a struggling business in today's inflationary climate.

Just 2 weeks ago President Carter sent an elaborate message to Congress, recommending a number of new initiatives, including special tax incentives, to help small business. The White House Conference on Small Business, billed as a major undertaking by the Federal Government to address small business problems, has just recently concluded.

Mr. President, this FICA tax option is one very good means—already written into law—of helping small business cope with the spiralling cost of social security taxes. Why we should even be discussing the prospect of taking this cost-saving measure away from small business is beyond me. Payroll taxes are already the most expensive tax for labor-intensive small business, and this FICA option is a perfectly legitimate way of holding down a payroll cost burden that will become even greater under the presently scheduled social security tax increase between now and 1987.

Mr. President, the small business category, as defined by the SBA and in this amendment, includes the vast majority of farmers. Farmers have been especially hard hit by rising production costs, coupled with low market prices. They certainly need the benefit of the modest savings available to those who wish to pay both shares of the FICA tax. In this regard, I call the Senate's attention to language in a resolution recently adopted by the American Farm Bureau Federation, which states as follows—I should like both the managers of the bill to hear this particular point by the Farm Bureau:

> Employers who choose to pay the employee's share of the FICA tax should be allowed to do so without that portion being considered additional income to the employee.

This language is a new addition to Farm Bureau's position on social security issues, added at their recent annual meeting in Arizona. Thus, enactment of section 507 would be directly contrary to the recommendations of the Nation's largest farmer organization. Mr. President, I ask unanimous consent that a telegram from Mr. Harry S. Bell, president of the South Carolina Farm Bureau, expressing their opposition to section 507, be printed in the RECORD at this point.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

DECEMBER 6, 1979.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: It is our understanding that the Senate Finance Committee has added a Section 507 to H.R. 3236 which will rescind provisions of the Social Security Act that some farmers have been able to use to the benefit of themselves as well as their employees. I would urge that when considering H.R. 3236 you oppose Section 507 of that legislation.

Sincerely,

HARRY S. BELL.

Mr. THURMOND. Mr. President, there is another problem with small business concerns that should be mentioned at this time. A number of small employers have, for years, found it easier for themselves and more acceptable to their workers for the employer to take care of the entire FICA tax payment. For these employers, whose motives for using the FICA tax alternative are primarily concerned with administrative convenience and employee acceptance, rather than payroll cost savings, the Finance Committee recommendation will result in another social security tax increase. The committee has recognized the need for a special exception in the case of domestics in private homes, but they have failed to take note of other small employers—farmers, small retail merchants, and others—who have traditionally paid all required FICA tax for the same reasons as employers of domestics in private homes. This amendment would prevent these small business firms from having to pay additional FICA tax.

STATE AND LOCAL GOVERNMENTS

Mr. President, our amendment also will permit State governments and political subdivisions thereof to have the benefit of a FICA tax option without incurring an additional FICA tax penalty.

Mr. President, I want to the managers of the bill to hear this provision I am giving now, because I think it is very important. It has come to our attention that at least one State government employer, the State of Texas, and an increasing number of local governments have adopted a system of paying FICA taxes for their employees. This system helps these governmental entities achieve a modest payroll cost savings, thereby avoiding the need for further increases in their tax levies. The National Association of Counties and many individual local governments have expressed their opposition to section 507 of this bill. Mr. President, I ask unanimous consent that a letter from the executive director of the Association of Counties and several letters from affected local governmental leaders be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., January 24, 1980.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: With regard to H.R. 3236 which the Senate is presently considering, we would like to draw your attention to section 507 of the Senate version as reported out of the Finance Committee. This provision would eliminate the local option for public employers to pay the employees' share of Social Security taxes, as is presently allowed. NACo supports retention of this option on the following grounds:

1. On general principle, NACo stands for local decision-making on issues of this nature. County governments, their elected representatives, and their employees should be allowed to exercise the option as to whether they want to adopt this policy. At present only a few counties have changed to the employer payment policy which as been allowed for forty years, but the decision should remain optional.

2. A local decision in this area would involve all parties affected through the normal local collective bargaining process. Employers as the duly elected representatives of the public, and employees through their local union or bargaining representative would be free to make a decision based on their own locally determined best interest.

3. Maintaining this option would be a further incentive for public employers to remain in or opt in to the Social Security system. Quite a few counties and other public employers have recently withdrawn or have withdrawal notifications pending. The incidence of these significantly accelerating withdrawals is likely to increase as the rates and tax ceilings are raised in future years. NACo policy, as stated in the American County Platform "...supports efforts by Congress to improve the Social Security system so that withdrawals will be less necessary or attractive, but the option to with-

draw should remain as is under current law."

4. Any loss in revenues caused by retaining the option should more than be made up by the incentive for and the increased likelihood that public employers will remain in the system.

5. The small decrease in individual retirement benefits under this option is offset by the increased take home pay which the employee receives. It is our position that public employers and employees would be in the best position to determine what is in their best interest, as is currently allowed.

6. NACo strongly supports continuity of federal policies that affect county procedures, policies, and systems, unless there are clear and overriding reasons to change. It would be expensive and time consuming for those counties which have already converted to the employer payment option to have to change back again.

7. Retaining or striking section 507 will neither save nor cripple the Social Security system. In these times of fiscal stringency, county employers and employees must be concerned with the best possible benefits and coverage for the price. The Social Security system must be made attractive and competitive with other options, which it is in increasing danger of not being.

While we understand and sympathize with the Senate Finance Committee's concern over the soundness of the Social Security system, we believe that section 507 would not be in the best interest of local decisionmaking principles for employers and employees, the likelihood of participation by public employers in the Social Security system, nor the fiscal integrity of the system itself. We would appreciate your assistance on the Senate floor in restoring this local option for public employers.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

GOVERNMENTAL AFFAIRS CONSULTANT,
Summerville, S.C., January 4, 1980.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: I am writing to ask you to oppose the passage of certain recommendations of the Senate Finance Committee with reference to H.R. 3236 now pending before the United States Senate (Calendar No. 438). These proposals are apparently the result of language suggested by Social Security Administration and represent yet another administrative encroachment upon private business and local government.

Present tax law enables the employer to pay both the employee and employer share of F.I.C.A. Tax. By doing this, the employer can achieve a savings of approximately three-fourths of one per cent of his gross payroll costs without any reduction of the employee's take-home pay. As a matter of fact, the employee usually enjoys a slight increase in take-home pay. All of this is possible because the employee, under existing law, is able to avoid paying FICA tax on the FICA tax itself. There may also be a very slight reduction in state and federal income tax which further benefits the employee.

Through the use of this option the employer is able to obtain other valuable economic benefits. These include a potential reduction of over 6% in workmen's compensation premiums, pension expense and other salary-based fringe costs.

The Report of the Senate Finance Committee on H.R. 3236 would remove this option by making it applicable only to domestic servants as a result of new language inserted in Section 209(f) of the Act which amends Section 3121(a)(6)(A) of the Internal Revenue Code. This change would work a severe hardship on public sector employers, farmers and private business. The Town of Summerville, for example, can save over $7,000.00 per year through use of existing provisions of the law. This equates to almost two mills of ad valorem property tax. I know of two private businesses in this area which also have the plan under active consideration. Both have less than 50 employees and stand to lose over $3,500 each if this amendment is passed.

It seems unwise to enact legislation which will deprive local governments, small business and farm employers of this option. This is particularly true when these elements of our economic structure are facing both the expense of inflation and the threat of recession. The argument has been advanced by the Committee that this change is needed to prevent potential losses of Social Security Revenue. These estimates have been based on the faulty assumption however, that *all* employers in the United States will immediately utilize this option. That assumption is ridiculous. Many employers are too small to gain significant benefit from this alternative. Many others would fail to use the idea simply because of a lack of awareness. Finally, others would reject this option solely on the basis of its complexity. Furthermore, any small decrease in FICA Revenue which might occur would be easily offset by the stiff rate and ceiling increases scheduled over the next several years. In short, the proposed change to the present law seems unnecessary, unjustified and, in view of present economic conditions, ill-advised.

I hope it will be possible to eliminate the change entirely. If that is not possible, however, perhaps the amendment could be modified so as to exclude the public sector, small business and farmers from the proposed limitations. Another option, although not a particularly desirable one, would be to provide some type of grandfather clause to protect those who implement the system during the next several years.

It is essential that the present proposal be stopped or at least modified. I urge you to voice your opposition to this act and to actively solicit the support of your colleagues in opposing this measure.

Thank you for your interest and your help.

Sincerely,

JOHN F. WILBANKS.

DECEMBER 6, 1979.

Hon. SENATOR STROM THURMOND,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: This letter is to express my personal concern in regards to imminent action, by the Senate, on H.R. 3236.

As Mayor of the City of Union, and as President of the Municipal Association of South Carolina, I am particularly opposed to Section 507 of that Bill.

Those municipalities, and business employers who practice sound fiscal management, and who have taken advantage of provisions of the Social Security Act which have existed for forty years, would be severely penalized for their efficiency if this Bill is passed with Section 507.

The only acceptable alternative, to me, would be to include Senator Helms' amendment which provides for a "Grandfather Clause" protecting those who now use the FICA tax option, and a time-phased (several years) elimination of the option.

I hope that you will consider my opinion in your deliberations on this Bill.

Most sincerely,

JAMES W. BLACKWOOD, Sr.,
Mayor.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Washington, D.C., January 25, 1980.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
Washington, D.C.

DEAR SENATOR LONG: Section 507 of H.R. 3236, which the Senate is presently considering, would remove the approximately 6 percent tax saving that accrues to an employer who pays the FICA tax for his employees. The County of Los Angeles, and the National Association of Counties oppose this provision, which would eliminate an option which has been available to employers for 40 years, and which has become increasingly important to county governments. Not only does the present law permit a saving which is important to counties, and their taxpayers, during a period of fiscal stringency, but it provides an incentive for counties to remain with the Social Security system rather than set up their own retirement plans. As you are aware, withdrawal of governments at all levels from Social Security has been increasing in recent years, and this poses a major problem for the system.

To underline the importance of retaining the present law to counties, I would like to cite actual cases. Santa Clara County, California, is presently paying the FICA tax on behalf of its employees. It adopted this approach in 1978, in the wake of Proposition 13. This county has 9,800 employees, who had an average salary in 1978 of $15,000 per year. It was not in a position to grant a wage increase, for fringe benefits and other costs would have risen proportionately. By keeping salaries and picking up the FICA tax payment the employee would normally have made, in lieu of a wage increase, this county was able to increase its employee takehome pay by 7 percent. Part of this increase came from the tax saving of $112 per employee that the county achieved by paying the entire FICA tax. The total saving for 9,800 employees amounted to $1.1 million in 1978.

Our County is not presently paying FICA taxes on behalf of its employees, but is well along in its evaluation of the advantages of conversion to this option. Los Angeles County is a large employer, and estimates its savings would be $9 million a year, or $25,000 a day, from conversion.

Clearly, these tax savings are important to county governments. Moreover, they are important to the Social Security System itself, for they tend to bind our counties to the system and provide a disincentive to withdrawal. Section 507 is a pennywise and poundfoolish provision, for the system would lose far more from withdrawals than it would save by eliminating the present tax saving. According to Social Security Administration data, a total of 28 counties with 26,113 employees has voluntarily terminated their relationship with the system as of September 30, 1979. A reflection of the accelerating rate of withdrawal is the fact that the number of employees represented by state and local governments pending withdrawal today is almost equal to the total that have withdrawn in the last twenty years.

A recent study by Martha Derthick of the Brookings Institution shows that a worker who came under Social Security in 1937 and paid the maximum tax for the next thirty years would have paid a total of only $2,637.60 if he retired at the end of 1967. By comparison, a worker who entered in 1968 and pays at the maximum rate will have paid $27,512.25 after only 20 years, assuming that scheduled increases in the tax rate and wage base are not changed. Increasingly, county governments are considering whether they can do better by investing such a large sum in a private pension plan, or whether they can achieve an earnings replacement rate at least as good as Social Security at lower cost

by some other means. County governments have an obligation to ther taxpayers and employees to explore such alternatives

It is in the long-term interest of the Social Security system, therefore, to allow such a modest tax incentive as that which Section 507 would repeal, to continue. It is sometimes implied by the proponents of Section 507 that the system is being harmed by the drain of the tax saving on the OASDI trust fund. But this is simply not the case, for while it is true that tax payments are somewhat lower, employee wage credits and therefore benefit payments are also lower. This is because by law, FICA tax payments made by an employer on behalf of an employee are excluded from the definition of "wages" for FICA purposes. The employee receives a somewhat lower retirement benefit, but this is offset by the increased take-home pay he receives in the near term.

In conclusion, Senator, I would like to strongly urge you to co-sponsor and support the amendments offered by Senators Thurmond and Helms to either strike Section 507, or exempt State and local governments and other public entities from its provisions. Please vote for the Helms-Thurmond amendments when they are offered on the Senate floor.

Sincerely yours,

JOSEPH M. POLLARD,
Legislative Coordinator.

BOARD OF CHOSEN FREEHOLDERS,
Mount Holly, N.J., January 24, 1980.

Attention Paul Suplizio, Washington Representative.

DEAR MR. SUPLIZIO: Enclosed is a certified copy of Resolution No. 43 which was adopted by the Burlington County Board of Chosen Freeholders at their meeting held Wednesday, January 23, 1980, which is self-explanatory.

Sincerely yours,

CHARLES T. JULIANA,
Clerk/Administrator.

Enclosure.

RESOLUTION

Whereas, under the United States Social Security Act of 1939 there is a provision which permits employers to pay the entire Social Security tax for employees and thereby receive a small tax saving when they do so; and

Whereas, this provision of the Social Security Act has been in effect for forty years and provides legitimate incentives for cost reduction in a time when government and all employers are using every effort to fight inflation; and

Whereas, there is an Amendment pending in the Congress to make this employer option economically unattractive by expanding the definition of employe income to include any portion of the employe tax liability paid by the employer; and

Whereas, such an Amendment would increase the strain on the budgets of State and local governments and in general would hurt the Nation's small businessmen and farmers; and

Whereas, there is an organization which has been formed known as Coalition to Save our FICA Taxes located at Suite 310, 5001 Seminary Road, Alexandria, Virginia 22311; and

Whereas, this organization has organized a national campaign to notify the respective Senatorial and Congressional Delegations urging them to support the employer's Social Security option which is now under attack; now, therefore, be it

Resolved by the Board of Chosen Freeholders of the County of Burlington that this Board supports the employer's option to pay the entire Social Security tax for employees under the Social Security Act of 1939 and supports efforts to prevent the repeal or the alteration of such Amendment; and, be it

Further resolved that it is urged that all residents of the County of Burlington write their United States Senators and Members of Congress from their districts urging them to support efforts to preserve this employer's option; and, be it

Further resolved that copies of this Resolution be forwarded to the United States Senators of the State of New Jersey, members of the Congressional Delegation for Burlington County and the Coalition to Save our FICA Taxes.

Mr. THURMOND. Mr. President, the opponents of our amendment will no doubt attempt to convince the Senate that allowing this FICA tax option to continue will hasten the demise of the social security trust fund. Let me assure other Senators that bankrupting the trust fund is certainly not our goal. To the contrary, if we were convinced that the committee's recommendation was absolutely necessary to save the social security system, or avoid further tax increases, we would probably support their effects. However, in their zeal to "save social security," the committee has overlooked a far greater threat to this program—that of voluntary terminations by the non-Federal public sector and other employers for whom participation in the system is optional.

Increasingly, municipalities, counties and States are finding social security to be a poor economic choice as far as a retirement program for their employees, and they are filing to withdraw from the system. Recent data from the Social Security Administration reveal that the number of applications for withdrawal within the next 2 years is nearly one-third the number of employers who voluntarily terminated in the prior 20 years. Even more telling is the fact that the number of employees represented by State and local governments pending withdrawal today is almost equal to the total that have withdrawn in the last 20 years. Mr. President, I ask unanimous consent that several tables prepared by the Social Security Administration that summarize the status of voluntary terminations be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COALITION TO SAVE OUR FICA TAXES,
Alexandria, Va., January 29, 1980.

DEAR SENATOR: We would like to bring to your attention the attached information, provided by the Social Security Administration, which documents public sector withdrawals from the Social Security system. As you know public sector entities participate voluntarily in social security.

A reflection of the accelerating rate of withdrawal is the fact that the number of employees represented by state and local governments pending withdrawal today is almost equal to the total number of employees withdrawing in the last twenty years.

State and local governments are increasingly asking whether they can do better by investing the funds contributed to Social Security in a private pension plan, or whether they can achieve an earnings replacement rate at least as good as social security at lower cost by some other means.

In recent letters to the Senate both the National Association of Counties and the County of Los Angeles have strongly supported retention of the local option for public employers to pay their employees share of social security taxes, as an incentive for these employers to remain in or opted into the Social Security system.

The cost of this incentive is far less than the potential revenue loss from withdrawal. For example, the revenue loss if the state of Texas were to withdraw its 160,000 employees (most of whom would be fully vested by Social Security benefits) would be one hundred and fifty to two hundred million dollars a year. On the other hand, the tax savings to the state for paying its employees FICA tax is about fifteen million dollars a year. Section 507 of H.R. 3236, which would remove this incentive is therefore a penny-wise and poundfoolish measure.

We urge you to support removal of Section 507 from H.R. 3236 when the bill is considered on the Senate floor.

Sincerely,

PAUL SUPLIZIO,
Washington Representative.

SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., November 30, 1979.

MR. E. MITCHELL JOHNSON,
Management Improvement Corp. of America, Durham, N.C.

DEAR MR. JOHNSON: Social security coverage is voluntary for both tax-exempt organizations and state and local entities. I am enclosing a list of all state and local entities that have filed with the Social Security Administration to terminate their social security coverage. A Voluntary Termination Summary, which is also enclosed, summarizes the statistics in the list. Some of the effective dates of termination on the enclosed list are in the future because a notice of intent to terminate must be filed at least 2 years in advance of the desired termination date.

The list is annotated to show those entities that have withdrawn their notice of intent to terminate. The Office of Insurance Programs has advised me that they began to show withdrawals of notice to terminate about three years ago. Before that time, the list was purged periodically. Therefore, not all of the 157 state and local entities that have filed to terminate and have then withdrawn their notice to terminate are shown.

I am unable to furnish you with a list of tax-exempt organizations that have filed to terminate their social security coverage. Although the Freedom of Information Act requires a Federal agency to make its records available to the public, the act exempts certain classes of records from this requirement. One exemption pertains to matters that are specifically exempt from disclosure by statute.

A tax-exempt organization's formal request to terminate social security coverage is originally filed with the Internal Revenue Service. Information relating to this type of request is considered to be tax return information as defined by the Tax Reform Act of 1976 (26 U.S.C. 6103). Therefore, under the circumstances of your request, 26 U.S.C. 6103(a) precludes us from disclosing this information to you.

If you do not agree with this decision, you may request that it be reviewed. Any appeal should be mailed within 30 days of receipt of this letter to the Deputy Commissioner for Programs, 6401 Security Boulevard, Baltimore, Maryland 21235. Please mark the envelope "Freedom of Information Appeal."

Sincerely

PAUL A. SCHUETTE,
Director, Office of Information.

Enclosures.

VOLUNTARY TERMINATION SUMMARY AS OF SEPTEMBER 30, 1979

Total requested to date (withdrawals not included—896 entities)

1. Entities already terminated (September 1959–June 1979)—674

2. Entities pending termination (September 1979–December 1981)—222

3. Approximately 25 percent of all requests have been received within the last 2 years.

Terminations through September 1979 involved approximately 111,988 employees.

Pending terminations involve approximately 98,118 employees.

Terminations—Three most active States: California, Louisiana, and Texas (81 percent of all entities terminated).

Terminations pending—Three most active States: California, Georgia, and Texas (62 percent of all entities pending termination).

Based on percentage of each State's total political subdivisions (entities) that are pending termination, Georgia and Louisiana are the most active:

State	Active political subdivisions pending termination	Percent of the State's total active political subdivisions
Texas	47	2.6
California	54	2.2
Louisiana	12	2.6
Georgia	40	3.8

VOLUNTARY TERMINATIONS—SEPTEMBER 1959–SEPTEMBER 1979

State	Number of entities terminated	Approximate number of employees
Alaska	1	45
California	257	37,124
Colorado	18	876
Delaware	1	1
Georgia	14	12,349
Illinois	1	1
Indiana	11	20
Kansas	2	67
Kentucky	3	54
Louisiana	195	45,246
Maine	9	692
Maryland	1	5
Massachusetts	1	10
Michigan	1	3
Missouri	8	34
Nebraska	2	18
Nevada	8	239
New Mexico	2	297
North Carolina	1	20
North Dakota	2	28
Oklahoma	2	19
Tennessee	7	150
Texas	95	12,578
Utah	1	1

VOLUNTARY TERMINATIONS—SEPTEMBER 1959–SEPTEMBER 1979

State	Number of entities terminated	Approximate number of employees
Washington	30	2,040
Interstate instrumentalities	1	71
	674	111,988

VOLUNTARY TERMINATIONS PENDING—SEPTEMBER 1979—DECEMBER 1981 AS OF SEPTEMBER 30, 1979

State	Number of entities	Approximate number of employees
Alaska	11	17,156
Arizona	1	75
Arkansas	1	132
California	53	12,802
Colorado	8	1,275
Florida	3	1,386
Georgia	38	17,338
Kansas	2	2,707
Louisiana	12	9,000
Maine	5	65
Maryland	1	4,237
Michigan	4	413
Mississippi	2	476
Missouri	10	5,405
Nevada	3	46
Oklahoma	10	528
Pennsylvania	1	19
Texas	47	23,636
Utah	4	977
Washington	5	439
Interstate instrumentality	1	6
	222	98,118

Mr. THURMOND. The point is, Mr. President, that the "employer pay option" is not a real threat to the social security system. Increasing voluntary terminations, however, could bring about the demise of the system in short order, and this option provides a substantial incentive for these State and local governments to stay in the system. Depriving this category of employers of a legitimate cost savings tool will only compound the problems facing the trust fund.

THE NOT-FOR-PROFIT SECTOR

Finally, Mr. President, our amendment will permit nonprofit institutions and organizations to continue to have a FICA tax option without penalty. Not-for-profit organizations (under section 501 of the Internal Revenue Code) are literally being crushed by growing FICA taxation. Because these entities pay no income tax, they cannot offset higher FICA taxes against income, thus reducing the amount of income tax payable, as a private business would. These entities pay no income tax, and, therefore, FICA tax increases hit them doubly hard. At one major university, FICA tax payments have increased by 250 percent since 1974.

For tuition to be prohibitively high, for a little less cancer research to be performed, for an emergency room to be understaffed, for a youth organization to have to operate without a program director, for a museum to close, or for a church to curtail its outreach program, ought not to be allowed to occur due to an unnecessary FICA tax increase.

Mr. President, the American Hospital Association, which represents some 6,100 institutions, has circulated a letter to each Senator, stating that they believe section 507 "would substantially increase hospital personnel costs" and be "contrary to the objectives of the voluntary effort to contain health care costs." I ask unanimous consent that the full text of this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN HOSPITAL ASSOCIATION,
Washington, D.C., January 29, 1980.

DEAR SENATOR: The Senate will soon consider H.R. 3236, a bill to amend the Social Security Act with regard to disability insurance programs, as reported by the Finance Committee, which added Section 507 to the bill. Section 507 would eliminate the option that employers have had since the inception of the Social Security program to achieve savings by paying the employees' share of the FICA tax liability.

Current law enables hospitals, including many financially troubled institutions, to achieve significant savings by exercising this option. For example, a hospital with 500 employees can potentially save about $500,000 over a ten-year period. Such savings, in turn, are passed on to all purchasers of hospital care, including the Medicare and Medicaid programs.

Our Association, which represents 6,100 institutions, believes that Section 507 would substantially increase hospital personnel costs, which comprise an average of over 50 percent of hospital expenses. Under the section's provisions, many hospitals would be faced with significant increases in their charges. Therefore, we believe that Section 507 is contrary to the objectives of the Voluntary Effort to contain health care costs and is inconsistent with federal policy to promote cost containment in the health care delivery system. It is our firm view that the section should not be enacted.

We therefore urge that you support an amendment to strike Section 507, or—in the event such an amendment is not offered—to vote in favor of an amendment sponsored by Senators Thurmond, Helms, and Armstrong to exempt certain nonprofit organizations, including hospitals, from the provisions of Section 507.

Sincerely,

LEO J. GEHRIG, M.D.,
Senior Vice President.

CONCLUSION

Mr. THURMOND. In summary, Mr. President, our amendment takes note of special problems which section 507 will create for small business concerns, State and local governments, and nonprofit entities. None of these groups have had an adequate opportunity to state their case in either Senate or House hearings, and the House has not even considered this issue. All three groups have serious concerns with this section of the bill. At a time when there is a growing feeling that something must be done to relieve the increasingly heavy FICA tax burden, it simply makes no sense to deprive these employers of a perfectly legitimate cost savings procedure, Mr. President, I urge the Senate to adopt this amendment.

Mr. HELMS. Mr. President, will the Senator yield some time to me?

Mr. THURMOND. I am pleased to yield to the able and distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. President, I am pleased to join with the distinguished Senator from South Carolina in cosponsoring this amendment.

Overall, I am mindful of the improvements H.R. 3236 will bring about in administering the social security system—which is constantly beset with problems.

However, I confess I do have concerns about section 507 of the bill, which is why I am delighted to join the distinguished Senator from South Carolina in the sponsorship of his amendment.

As the Senator said, section 507 modifies the provisions of the existing law so that after 1980 any amounts of employee social security taxes paid by an employer will be considered to constitute wages and will, therefore, be subject to social security taxation.

This provision would, as the Senator has eloquently stated, effectively preclude employers from paying FICA taxes on behalf of their employees.

Small business employers, farmers, State and local governments, and private nonprofit organizations have found it beneficial to pay their workers' share of the social security tax. This procedure is obviously helpful to the employers. Especially among farmers, there is reason to believe that a significant number have traditionally assumed the entire FICA tax liability as a matter of convenience and simplicity. For all of these employers, section 507 of this bill inevitably will result in an additional social security tax increase because it expands the term "wages" to include employee FICA tax paid by the employer.

The Thurmond-Helms-Armstrong amendment simply expands the categories of employers in section 507 that would be permitted to maintain the option of paying their employees' FICA taxes. The exempt employers are, in addition to domestic servants, as follows: Small business, as defined in the Small Business Act; State or political subdivisions thereof; and private nonprofit organizations.

As one might expect, Mr. President, this amendment has the endorsement of a countless number of small businesses across the country. The amendment is supported by the American Hospital Association. At its 1980 annual meeting, the American Farm Bureau Federation adopted a resolution stating that employers who choose to pay the employees' share of the FICA tax should be allowed to do so without that portion being considered additional income to the employee. And, the National Association of Counties has also endorsed the amendment.

Both the State of North Carolina—which is currently studying the feasibility of the so-called FICA II system—and the North Carolina League of Municipalities have contacted me to express their opposition to section 507 and to offer their support for the Thurmond amendment.

The concerns of all of these affected groups are certainly legitimate and worthy of our consideration. I have concluded, therefore, that the full impact of section 507 ought to be studied further by the Finance Committee which—I understand—did not hold hearings on the subject. After all, why should we not provide the farmers, the small businessmen, State and local governments, hospitals and other nonprofit organizations an opportunity to be heard on this issue? It is only fair.

I have already introduced an amendment that would delete section 507 altogether and I intend to call up this amendment No. 1442 if, for whatever reason, the Thurmond amendment is not agreed to. I might add at this point that I believe Senator THURMOND might be willing to consider laying aside his amendment if the managers of the bill would indicate their willingness to delete section 507 in order to give this issue further consideration. Unless the managers are willing to do this, then I feel that the Senate has no choice but to vote to include the additional exemptions as provided by Senator THURMOND's amendment.

At any rate, I strongly urge my friend from Louisiana, the distinguished chairman, and other members of the committee to take another look at this controversial provision. It should be noted this particular section has not passed the House of Representatives. To my knowledge, it has not been considered in the other body.

The entire matter of social security funding undoubtedly is going to be reexamined in light of current reports indicating that the trust fund is once again confronting an uncertain financial picture. Surely the concerns of the committee, the Social Security Administration, and the affected taxpayers with regard to section 507 could be more fully addressed in the context of an overall study of social security system funding.

A factual assessment of the issues raised by employer payment of FICA taxes on behalf of employees ought to evaluate the following two main points:

First. What will be the impact on social security trust funds and employee benefits if the alternative method of paying the FICA tax is retained for various categories of employers? (The frequently cited figure of $6.5 billion potential loss to the trust funds is based upon the extreme example of all employers in the country shifting to the alternative method of paying the tax. Compared to this figure, the loss projected by the Finance Committee—$30 million next year—is negligible. Of course, the Thurmond amendment would not permit all employers to use the alternative payment method. At any rate, what the figure would realistically be expected to be at different points in the future is not provided. Yet, such information is crucial to legislating in this area. Another glaring omission is the net effect on the trust funds due to the reduction in future benefit liabilities.)

Second. Will removal of the alternative payment incentive contribute to further withdrawals from the system, which have increased at an alarming rate in recent years? (A reflection of the accelerating rate of withdrawal is the fact that the number of employees represented by State and local governments pending withdrawal today is almost equal to the total number of employees withdrawing in the last 20 years. State and local governments are increasingly asking whether they can do better by investing the funds contributed to social security in a private pension plan, or whether they can achieve an earnings replacement rate at least as good as social security at lower cost by some other means. In recent letters to the Senate both the National Association of Counties and the County of Los Angeles have strongly supported retention of the local option for public employers to pay their employees share of social security taxes, as an incentive for these employers to remain in or opted into the social security system.)

Mr. President, I want to emphasize again my belief that passage of section 507 will work a hardship on public sector employers, farmers, and small businessmen. And it seems unwise to this Senator to deprive local governments, small business and farm employers of this alternative FICA option without first examining the issue in more detail.

It may be that the distinguished Senator from South Carolina would be willing to lay aside his amendment in order to have a vote on amendment No. 1442, but we will discuss that a little later on.

I believe Senator THURMOND is exactly right in the points he has made with reference to the impact section 507 would have.

I have suggested privately to my friend from Louisiana that it may be the course of wisdom to do as my amendment No. 1442 suggests, to strike the provision, take a look at it, and study the impact.

I am not certain how much consideration was given the impact by the committee. Certainly, it would do no harm to let the various affected parties come in and make the committee aware of it.

I offer this amendment not in criticism of the distinguished chairman. I do so in constructive good faith. I hope he will consider it.

I ask the Senator from South Carolina if he would be interested in laying aside his amendment temporarily, at least, so that amendment No. 1442 might be considered by the Senate.

Mr. THURMOND. Mr. President, in response to the able Senator from North

Carolina, I would be willing to lay aside my amendment temporarily in order that the Senator from North Carolina might have a vote on his amendment to eliminate the entire section 507.

Mr. HELMS. Exactly.

Mr. THURMOND. My amendment applies only to the three fields I mentioned—the three fields of small business, State and local governments, and nonprofit entities.

I feel that it would be preferable, however, if the entire section 507 were eliminated. I understand that hearings will be held next month by the Finance Committee on the financing of the social security system. They could take up the entire matter.

I think that if we would eliminate the entire section 507 at this time, it would be the best procedure, in view of the fact that the Finance Committee is going to hold these hearings next month on the financing of the social security system.

Mr. President, I ask unanimous consent that my amendment be laid aside temporarily, until the distinguished Senator from North Carolina can get a vote on eliminating section 507 in its entirety.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. I thank the able Senator.

AMENDMENT NO. 1442

(Purpose: To retain the rights of employers to pay certain FICA taxes for employees)

Mr. HELMS. Mr. President, I call up amendment No. 1442.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 1442.

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

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

The amendment is as follows:

On page 106, strike lines 7 through 24.

Mr. HELMS. Mr. President, I really have nothing further to say.

I ask unanimous consent that the names of Senator THURMOND, Senator ARMSTRONG, and Senator HATCH be added as cosponsors of the pending amendment.

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

Mr. HELMS. Mr. President, if I may, I should like to bounce the ball to the distinguished Senator from Louisiana and the distinguished Senator from Louisiana and the distinguished Senator from Kansas, who are the managers of this bill.

Mr. LONG. Mr. President, as they say in Kentucky, a difference of opinion is what makes horseracing.

I cannot agree with this amendment. I heard our good friend from South Carolina say that the Finance Committee should consider this amendment in connection with a bill to finance the social security program. Mr. President, this amendment is not here to finance the social security program. This amendment is here to keep the system from going broke.

Some years ago, someone found what we regard as a loophole in the law. It is there, and I am not criticizing anybody for taking advantage of a provision of the tax law. They have every right to do it; and so far as I am concerned, more power to them.

There are a lot of good tax lawyers in this country and a lot of successful accounting firms which are getting rich, and that is the free-enterprise system. They have found a way to save somebody some money in taxes, and they get rich at it.

This firm, a very good firm, I am sure, operating in North Carolina, the Management Improvement Corp. of America, has a very fine officer named Jane L. Martin, who has been very active and successful in promoting this approach to social security taxes.

I hold here a copy of a copyrighted publication by that group, entitled "Payroll Tax Alternative Using FICA II." I will read one or two sentences from it:

For example, with a $10 million payroll under the FICA-taxable base of $22,900 in 1979, the employer savings will be $75,000 in the first year alone. And this annual savings will almost triple over the next eight years under the present law. Clearly, employers can substantially reduce their payroll costs.

Mr. President, there is no doubt about it. Ms. Jane L. Martin is adivising these people correctly, in this copyrighted publication the firm is sending out, that if they will do what this firm is advising them to do—the Management Improvement Corp. of America and its associates—then a company with a $10 million payroll would save $75,000 in the first year, and further on down the road, they would save three times that much. They would save a quarter of a million dollars by taking advantage of this loophole. I call it a loophole because it is something that Congress never intended. We never intended to leave the employers the option to reduce their social security taxes by 5 percent, just by the way they go about paying the tax.

This is what it amounts to using round numbers: Let us assume that the employee part of the tax would be $1,000. Let us assume he is making about $20,000 a year. So the employer says, "Instead of paying you $20,000, I'll pay you $19,000, and I'll pay that tax for you." So the employee gets exactly the same amount of money he was getting before, but the employee's social security tax has been reduced and the employer's social security tax has been reduced by about 6 percent of that $1,000. They have each saved about $60 a year, by making that deal.

Mr. President, right now, not many people are doing this. My good friend from South Carolina said that this is going to hurt farmers and small business. Our estimate is that by closing this loophope, in the first fiscal year in which it is applied, only $30 million is involved, in a big country like this, with more than 200 million people. So one can see that not many people are taking advantage of it yet. But anybody has the right to do it. Individual employers can do it; corporations can do it; just anybody can do it. If everybody did it, it would cost the social security fund $6.5 billion a year.

We are in danger of going broke the way it is now. That is with the $6.5 billion coming into the fund. If we let everybody take advantage of this—and here is the Management Improvement Corp. of America spreading these good publications around, and there is no doubt they are right about it—one wonders what is the matter with the employers if they do not go along with this.

The first year, anybody who has a $10 million payroll saves $75,000; and a few years down the road, he saves a quarter of a million bucks. If you have some old-fashioned firm that is doing business the way Congress intended business should be done, they had better be fired and the Management Improvement Corp. of America hired. Those folks will save you a quarter of a million dollars just because they are smart. They figured out this loophole.

Of course, the other firms are not going to go broke. They will adopt the same idea. H. & R. Block is not that bad. They have the ability to read. Even though that publication might be copyrighted, I know from my studies in law that you cannot copyright an idea. So H. & R. Block will get into it, and everybody will get into it, unless we change this law. It will cost us $6.5 billion a year.

I see the Senator from Wisconsin in the Chamber. He and I have had some differences about whether we should go into the general fund to finance social security with the income tax money rather than finance it by the payroll tax, the way we have done up to this point.

If we do not do something about this loophole, it makes no difference what we do—we are not going to finance social security.

All these working people are paying in their money and they are being told about all the social security benefits they will get; but if we do not close this loophole, at the time they become 65 the social security system will not have enough money to pay out all the benefits they are entitled to.

This is a small drain on the Treasury at this point, a very small drain, involving less than $30 million. But this thing will grow by leaps and bounds if we do not plug the loophole. It is different from some other tax loopholes with which we have been involved. I fail to see any redeeming social grace in this one.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. NELSON. The Senator is making a very good speech. I have an appointment for a few minutes, and I will return as soon as I leave that meeting. I just want to reinforce something the Senator has said, if he will yield to me for that purpose.

Mr. LONG. I yield the Senator from Wisconsin such time as he may require.

Mr. NELSON. I say to the distinguished Senator from North Carolina

that, on the issue itself, I suppose I would disagree. I am not convinced that it is a good principle to adopt. I think it is not a good one.

However, the problem is that we have not had hearings. I say to the distinguished chairman, as chairman of the Social Security Subcommittee of the Finance Committee, that I had the dubious political honor—it was a great responsibility and a great honor, but it was a dubious political honor—to manage the social security tax increases on the floor of the Senate in 1977.

I have not gotten any letters of congratulation yet, and that was 3 years ago.

I say to the chairman and to the distinguished Senators from North Carolina and South Carolina that I would be perfectly happy to have a hearing on this issue. I am going to have a hearing in February anyway on the status of the fund and some other items.

The reason I say that is that because of the inflation, which was not anticipated by the actuaries, the fund is in a serious problem which we hope is temporary, and will be if the inflation comes down.

But the fact is that as of January 1, the OASI fund had only 23 percent of annual payout on hand.

We took the position in the Finance Committee, and Congress has for years, that the fund should not be allowed to get below 75 percent of the annual payout on hand, starting the fiscal year, nor in excess of 150 percent of payout. This year it is down to 23 percent. That is a very risky place for it to be. The next year it will be 14 percent, the next year 6 percent, the next year 83 percent. We start with zero based upon projections by the administration, which I will say quite honestly to Senators I believe are a bit on the optimistic side.

So anything that takes any dollars out of the fund in any way poses a very serious problem.

I think that we can meet the transition and go on through 1985; but what happened, as I think the Senator knows, is that when we levied the increases in the base, and when we increased the tax, we based our assumptions about the fund and the assumptions made by the actuaries who anticipated about—I have forgotten exactly—a 5-percent, I believe, inflation rate or thereabouts, and it has gone up above 10, and as it goes above 10, that increases the benefits for the retirees who are tied into the social security system, as the Senator knows.

So, I think it would be a very dangerous thing to do, a very dangerous threat to the fund, to allow this to continue because, as Mr. Driver, the Commissioner, in a letter written to me the other day, says it would cost the fund a huge amount of money; yes, $6.5 billion if everyone adopts. Even if only half the people adopt it, we are talking about a cost to the fund, a loss of $3.2 billion.

I do not know of anyone in this body, or the other body, who would want to face the proposition of levying tax to meet the anticipated cost to the fund.

If someone will come to the Chamber with a proposal to raise the $6 billion so that 3 years further down the line we are sure this is paid for, I will honor the Senator, I will praise the Senator, and vote against the proposition, because I do not think with a tax increase going into effect in January of this year, a tax increase in January, 1981, and a tax increase automatic in 1985, any of us really is prepared to increase that tax.

But we will be stuck to do it if we add any more expenses to this fund.

So I think it is an important point that the Senators from South Carolina and North Carolina raised, and I think it is a valid point to have hearings on. I will be glad to do that, but I simply hope that we will not adopt it in the Chamber. That is all.

Mr. LONG. Mr. President, if I understand what the Senator is saying, he does not mean we should strike the committee amendment out of the bill, does he?

Mr. NELSON. No. I am hoping we will leave the bill as is.

Mr. LONG. Yes.

Mr. NELSON. Leave the bill as is, and I am prepared to take testimony if it is desired on the proposition, but to amend the bill now exposes us to a potential deficit loss of $6.4 billion, and I do not know where we are going to get the money. I do not know what we are going to do about the money to meet the outgo in 1983 when there will be zero left in the OASI. You can borrow from the DI, and you can borrow from the HI because they will have some money in them. I was going to put the amendment in here to borrow. But I was said, no, do not borrow from any one of these funds. So they cannot get any agreement on that.

So I just hope that the Senators from South Carolina and North Carolina will bring the matter to my subcommittee, and we will be happy to give it the hearing.

Mr. President, I ask unanimous consent that the letter from the Commissioner of Social Security, Mr. Driver, be printed in the appropriate place in the RECORD, and, also, I ask unanimous consent that the status of the trust funds, as projected by the administration, be printed in the RECORD so that it will show the status of these funds and the necessity for getting more money into the fund, not adding any burden to them.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY ADMINISTRATION,
Washington, D.C.

HON. GAYLORD NELSON,
Chairman, Subcommittee on Social Security, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to provide the Administration's position on certain amendments that we understand may be proposed when H.R. 3236 is considered by the full Senate.

A Senate Finance Committee amendment to H.R. 3236 (Section 507) would largely eliminate the provision on the social security law which excludes any employer payment of an employee share of social security taxes from the definition of wages for social security taxing and benefit purposes. The Committee amendment would limit use of this provision to employers of domestics, effective after 1980.

The Administration supports the Senate Finance Committee amendment because it would eliminate a loophole in current law which reduces revenues to the social security trust funds and decreases the employee's social security protection. When an employer pays the employee share of social security tax, the amount of compensation subject to social security taxes is lower than it would be if the employee paid his or her share, and the combined employer and employee taxes are lower. While we do not know how many employers are paying their employee's social security taxes, we do know there is widespread interest in the practice. The potential loss to the social security trust funds is a matter of grave concern. For example, if all employers had used the loophole in 1979, the loss to the social security trust funds would have been $6.5 billion.

Payments of an employee's social security taxes can impair the employee's future benefits. While the employer saves money, the amount of the employee's earnings covered by the social security is lowered and future social security benefits decreased. Further, the reduction in the employee's earnings will result in reduced benefits under other employee benefit plans related to earnings, such as pension plans and profit-sharing plans. The net effect in many cases is that employers save money at the expense of their employees and the social security trust funds.

The proposed amendments involve striking the Committee amendment, exempting particular groups of employees or employers from the effect of the Committee provision, and delaying the effective date. The Administration strongly objects to any amendments that would strike the Senate Finance Committee amendment or modify its effect by exempting any category of employees or employers other than domestic employees. Continuing the exclusion for domestic workers is intended to encourage domestics and their employers to comply with social security reporting requirements. Compliance with reporting requirements for domestic employees is often lax, primarily because of the small amounts of wages that are involved in domestic employment. Removing the exclusion for domestic employees could result in a situation where many domestic employees would have no social security coverage at all, because no wages would be reported. We do not believe that a similar situation exists for other categories of employees or employers and are concerned that additional exclusions will undermine the intent of the Committee amendment and leave a loophole in the social security law to the detriment of employees and the social security trust funds. The result of leaving a loophole in the law could be an increase in social security tax rates for everyone in order to offset the loss to the social security program.

The Administration is sympathetic to the fact that many employers who are already making use of the present law provision could need a period of time to comply with the change in the law. Therefore, we would not oppose an amendment providing a "phase-out" period for those employers who are already using this provision. We will be glad to assist in working out any details of a "phase-out" amendment.

Sincerely,

WILLIAM J. DRIVER,
Commissioner of Social Security.

STATUS OF SOCIAL SECURITY TRUST FUND RESERVES

Calendar year [1]	DASI [2]	DI [3]	HI [4]	OASDHI [5]	OASDI [6]
1980	23	35	54	29	24
1981	14	43	55	24	18
1982	6	58	72	22	12
1983	0	76	88	21	8
1984		[illegible]	102	21	5
1985		[illegible]	113	23	3

[1] Start of year balance.
[2] Old age and survivors insurance trust fund.
[3] Disability insurance trust fund.
[4] Health insurance trust fund.
[5] Combined DASI, DI, and HI trust funds.
[6] Combined DASI and DI trust funds.

Mr. NELSON. I thank the Senator. I know I interrupted his dialog. I do have a meeting to get to at lunch, but I will try to get back here if there is anything further.

Mr. LONG and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Louisiana.

Mr. LONG. Mr. President, the proposal of the Finance Committee to close this loophole does not go into effect until January of next year. I will be glad to hear witnesses talk about the matter, if they want, to between now and then. But it is the point of view of the committee that this is a loophole that is going to grow very rapidly as more and more employers take advantage of it.

It has a potential revenue loss to the social security fund of $6.5 billion a year. We should close it off just as rapidly as we can, consistent with appropriate considerations.

But, from the point of view of the administration, it is a loophole that should be closed immediately. From the point of view of the Finance Committee, it is a loophole that should be closed immediately.

I hope that the House of Representatives will look at it the same way.

Of course, Senators have made some good speeches for their side of the argument; but I am not convinced at all. It seems to me that this is a loophole that is not costing us much right now, about $30 million a year, but it is going to cost us a great amount of money in a hurry if we do not close it.

It seems to me the sooner we do it the better off we are all going to be.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am willing to yield to the distinguished Senator from Kansas in just a moment, but I think the point should be made that it is not the small business people, the farmers, and others affected by this section, who have caused the calamity in the social security program.

As a matter of fact, over a period of 20 years or more, Congress has been rearranging the deck chairs on the *Titanic*, bringing in people and giving them coverage when there is no way that they could even approximate paying their way in the program. That is the reason the program is in a calamitous situation today.

This amendment prevents a tax increase from being imposed on the small business people of this country—and we all profess to be strongly in their support—and the farmers, the municipalities, and so forth.

Having said that, Mr. President, I yield to my friend from Kansas for any comments he may have.

Mr. DOLE. I thank the distinguished Senator from North Carolina.

I have listened to the Senator from Wisconsin, and share his view. But it seems to me, if this is not going to take effect until January of 1981, why not delete it and have the hearings? Why do we have to do it the other way around? We finally repealed the carryover basis which we stuck in the Tax Reform Act of 1976 without any hearings, but it took 4 years to undo that monster.

Why should we close off the option with section 507? Why not delete the section, have the hearings, maybe take care of at least what Senator THURMOND has been speaking about? This option has been available for 40 years, and it has not been a loophole up to now.

I cannot remember what the chairman used to say. I think it was one man's loophole is another man's incentive, or something to that effect. The option could become very costly. I agree with the Senator from Wisconsin that $6.5 billion is costly. My point is, however, that we will have almost a whole year before the provision takes effect. We are going to be having hearings on social security financing in any event. That agreement was reached last year before we adjourned. Therefore, it seems to me, we could properly decide this issue at that time.

As I understand the genesis of this, it came from the administration at the last moment. There was not much discussion on it in the committee. Maybe it is totally justified. However, since it is not effective for 11 months, I would certainly urge my colleagues to vote to support the Helms amendment, and then we can have some hearings and maybe do just what we have now in the bill.

The PRESIDING OFFICE. . The Senator from South Carolina.

Mr. THURMOND. Mr. President, the figure of $6.5 billion has been mentioned. I want to say that, in my judgment, this is misleading. That figure assumes every employer in the Nation would adopt the procedure of paying employees' FICA taxes. This is simply not going to happen.

While payments into the trust funds are slightly reduced for each employer who pays the entire FICA tax, future benefit payment—that is, the contingent liabilities of the trust funds—are reduced proportionately, because employer payments do not count as employee wage credits.

Employees, in exchange for slightly lower future social security benefits, receive an immediate gain in slightly higher take-home pay, which they can spend, or invest for retirement as they choose.

I also call attention to the fact that removal of the FICA tax alternative will deprive State and local government employers, along with nonprofit entities, of a cost-savings incentive to remain in the social security system and will actually hasten withdrawals from it. The cost of this incentive is far less than the potential revenue loss from withdrawal. For example, the revenue loss if the State of Texas were to withdraw its 160,000 employees—most of whom would be fully vested in the system—would be some $150–$200 million a year. On the other hand, the tax savings from the FICA alternative is some $15 million per year. Section 507 of H.R. 3236, which would remove this incentive for staying in the system, is, therefore, a penny-wise and pound-foolish measure.

The actual revenue loss to the trust fund due to the alternative FICA tax procedure is presently "negligible," according to the Social Security Administration's own estimates and statements.

A more realistic figure of the expected future reduction in trust-fund income is shown on page 93 of the committee report. The estimates shown in this table, while only a guess, because no one knows for sure how many employers may eventually choose the alternative of paying all FICA taxes, show a decrease in annual revenues of $100 million by fiscal year 1984. That is far, far less than the $6.5 billion figure cited by the opponents of this amendment.

Mr. President, I think it only makes sense, since this will not go into effect until next year, that we strike this section 507 and leave the law as it is. We are not asking for any deductions, we are not asking for any special favors here for these groups that are covered by my amendment here, the small-business people, the State and local governments or the nonprofit entities. We are merely asking that the law be left like it is until hearings can be held. Is that not the position of the distinguished Senator from North Carolina?

Mr. HELMS. Absolutely correct.

Mr. THURMOND. If that is the case, why go in and include this section 507 in the bill before we have hearings? Let us leave it out of the bill. Keep the present law, hold the hearings, and then we we can act wisely and justly on the recommendations of the Committee on Finance as to what should be done.

Mr. President, in view of that I feel that section 507 should be stricken from the bill and remain stricken until the hearings are held, and then we can act, I think, with more expertise.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the Senator from South Carolina is absolutely correct. There are going to be a lot of local and State governments withdrawing from social security if section 507 is retained, and while I know the motivation of the committee and understand it, I do not think the committee is thinking this thing through. I urgently advise all Senators to seriously consider the impact on the social security fund that would result if section 507 is retained.

Certainly unless and until hearings are held so that the situation can be studied carefully, I believe the penny-wise and poundfoolish application is self-evident.

Mr. President, I have a copy of a letter dated January 24, 1980, written by Bernard F. Hillenbrand, executive director of the National Association of Counties. Let me just read one paragraph. He says:

> Maintaining this option would be a further incentive for public employers to remain in or opt in to the Social Security system. Quite a few counties and other public employers have recently withdrawn or have withdrawal notifications pending. The incidence of these significantly accelerating withdrawals is likely to increase as the rates and tax ceilings are raised in future years. NACo policy, as stated in the American County Platform ". . . supports efforts by Congress to improve the Social Security sys-

tem so that withdrawals will be less necessary or attractive, but the option to withdraw should remain as is under current law."

That pretty well states the intent of the local governments if this section 507 remains in the bill.

Mr. President, I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., January 24, 1980.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: With regard to H.R. 3236 which the Senate is presently considering, we would like to draw your attention to section 507 of the Senate version as reported out of the Finance Committee. This provision would eliminate the local option for public employers to pay the employees' share of Social Security taxes, as is presently allowed.

NACo supports retention of this option on the following grounds:

1. On general principle, NACo stands for local decision-making on issues of this nature. County governments, their elected representatives, and their employees should be allowed to exercise the option as to whether they want to adopt this policy. At present only a few counties have changed to the employer payment policy which has been allowed for forty years, but the decision should remain optional.

2. A local decision in this area would involve all parties affected through the normal local collective bargaining process. Employers as the duly elected representatives of the public, and employees through their local union or bargaining representative would be free to make a decision based on their own locally determined best interest.

3. Maintaining this option would be a further incentive for public employers to remain in or opt in to the Social Security system. Quite a few counties and other public employers have recently withdrawn or have withdrawal notifications pending. The incidence of these significantly accelerating withdrawals is likely to increase as the rates and tax ceilings are raised in future years. NACo policy, as stated in the American County Platform ". . . supports efforts by Congress to improve the Social Security system so that withdrawals will be less necessary or attractive, but the option to withdraw should remain as is under current law."

4. Any loss in revenues caused by retaining the option should more than be made up by the incentive for and the increased likelihood that public employers will remain in the system.

5. The small decrease in individual retirement benefits under this option is offset by the increased take home pay which the employee receives. It is our position that public employers and employees would be in the best position to determine what is in their best interest, as is currently allowed.

6. NACo strongly supports continuity of federal policies that affect county procedures, policies, and systems, unless there are clear and overriding reasons to change. It would be expensive and time consuming for those counties which have already converted to the employer payment option to have to change back again.

7. Retaining or striking section 507 will neither save nor cripple the Social Security system. In these times of fiscal stringency, county employers and employees must be concerned with the best possible benefits and coverage for the price. The Social Security system must be made attractive and competitive with other options, which it is in increasing danger of not being.

While we understand and sympathize with the Senate Finance Committee's concern over the soundness of the Social Security system, we believe that section 507 would not be in the best interest of local decision-making principles for employers and employees, the likelihood of participation by public employers in the Social Security system, nor the fiscal integrity of the system itself. We would appreciate your assistance on the Senate floor in restoring this local option for public employers.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

Mr. HELMS. I would urge not only the distinguished managers of the bill but all Senators to consider the exceedingly adverse impact this is almost certain to have if section 507 is not eliminated, certainly so long as may be necessary for the committee to study it carefully.

For that reason, Mr. President, I would want the Senate to vote on this question. I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I now yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I just want to underscore the point the Senator made again, and it seems to me that we are not going to make any final decision, in any event, today.

Mr. HELMS. Correct.

Mr. DOLE. That is going to be a year away. It just seems to me the better part of procedure is to have the hearings before you make the decision. Now you are going to get the verdict before the trial.

Mr. HELMS. Right.

Mr. DOLE. You are going to get hung today and you have not even had a hearing. Once you get the weight of the bureaucracy behind this, once they win—which they will if this provision is not deleted—you may as well not have any hearings. You are not going to win. You would have a slim chance of changing it once section 507 becomes law.

It seems to this Senator, just as a matter of equity, without any discussion of the merits of what you would like to do eventually, that we ought to strike section 507. We have a year's time. We can have hearings sometime next month or the month after.

I assume that sometime this year there will be another bill on this floor that affects social security, so there will be an opportunity to offer this provision after the hearings. But I hope those who would like to have the evidence presented before they make a judgment would permit us to do that in the Finance Committee. The evidence may clearly indicate that we should do precisely what is now being suggested in section 507. But it strikes me as a little unfair to the people you represent in North Carolina, in South Carolina, and others all across this country—farmers and small businessmen, in particular—to have had a verdict rendered this morning without a hearing. That is not the way we should proceed.

Mr. LONG. Mr. President, I yield myself 2 minutes.

Mr. President, when we discussed this matter in the Finance Committee we shared a unanimous view. Nobody objected to closing this loophole. The longer we wait, the more people there will be who will be taking advantage of the loophole and the more resistance there will be to closing the loophole.

As it stands now, only a few employers are taking advantage of it, as evidenced by the fact it is only costing us $30 million a year. But, in due course, if you wait a year, you will have maybe two or three times that many employers taking advantage of it, and it will be more difficult to close the loophole.

Here is a hearing held over in the House. You can sit down and read everything that was said at the hearing, Mr. President, in an hour. No problem at all. There it is. It is a brief document. And more than half of what is in there is just publications, memoranda, and letters, things of that sort.

But they had Mr. Lawrence H. Thompson come in and testify that the loophole ought to be closed, on behalf of the administration and the Department. They had Mr. Robert Myers—a really great witness, in my judgment. We have hired him many times as a consultant to the Finance Committee to help us work on social security bills, and things of that sort. He is a great actuary. He was with the social security program for many, many years. He is very strongly in favor of closing the loophole, basically, for the simple reason that it is a threat to the solvency of the social security fund. It ought to be closed.

It is all right with me to sit down and let people talk about it for an hour or two.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOLE. Was that a Senate hearing?

Mr. LONG. No; that was a House hearing. But just because you are a Senator does not mean that you cannot read a House document.

Mr. DOLE. I agree. But I do not always agree with the House. They were not very alert. If you had a Senate hearing, Senator HELMS would have been there, Senator THURMOND would have been there, and Senator LONG would have been there. We cannot run over there every day.

Mr. LONG. Mr. President, I yield myself 1 more minute.

Mr. President, my thought is that the Senate should just do what is right. Just do right. If you are in doubt, just do right.

This loophole is a threat to the social security system. We just say: Let us close off this loophole. These people can go ahead and take advantage of it for the remainder of this year. But next year it is not going to be there, if the majority of the committee has its way, if the President has his way, and if the administration has its way. All the people who are very worried about the solvency of the social security program, if we have our way, we are going to close this social security tax loophole, because it is threatening the social security system.

It may be that it takes longer to convince other people than it does to convince some of us.

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. LONG. Mr. President, I yield myself 1 more minute.

But, Mr. President, I, for one, can sit there and listen until I am blue in the face and nobody is going to change my mind about this thing. This is a loophole we are going to have to close sooner or later. If you have to close it, you might as well go ahead and do it now when less people are using it.

I have heard the arguments here, Mr. President, but I do not see any redeeming grace to this loophole. It was not intended. Congress could not have wanted an open loophole costing $6.5 billion in tax revenues and hope to keep this program solvent.

Once people start taking full advantage of it and you start having people promote it to their clients so they take advantage of it, you just will have to close the loophole. That is all we are suggesting.

I yield myself 1 more minute.

It may be that there will be information presented on this subject at the hearing but, Mr. President, as one who has been around here a long time—for 31 years—let me predict, with confidence, that the committee can do all the hearing it wants to or it can do as little as it wants to—by the time we get through with the hearing, our opinion will be just exactly the way it was before we started the hearing. And all those who asked to hold hearings, are they going to come? Maybe the Senator from South Carolina, who is very concerned about it, will come to the hearings. Maybe the Senator from North Carolina, who is very concerned about it, will come to the hearings, but they are not going to change their mind. I am not going to change their minds, because they have convinced me right now that they are against the committee amendment.

Those men do not change very easily. I know them. They are pretty tough cookies when they make up their minds about something, especially when they have a constituent who is very much involved. They are very tough to change. I do not think we are going to change them, just like they will not change the majority of our committee.

Mr. DOLE. Mr. President, I think what they are worried about is execution before the trial. You like to believe that the evidence will be presented before judgment. Maybe we could look at that. I do not know. Maybe there is no reason to delay it.

But the chairman has used the word "loophole" consistently. I do not know what a loophole is. But, apparently, when you help some small farmer or some small businessman, that is a loophole. When you help big business, that is a tax incentive. But I trust that the Senator from North Carolina would persist.

Mr. LONG. Mr. President, every Senator here, including my good friend from Kansas, has a way of offering amendments that have not had hearings, if he thinks he could make a good case and he thinks the case is there.

Mr. President, we reported this bill out back in November of last year. We got the unanimous-consent agreement to vote on the bill and to limit ourselves to germaneness on November 20 of last year. Nobody came to me and asked for any hearing until now. Now, Here it is, months later, and somebody comes up and says: "Oh, my goodness. Don't do anything before you hold hearings."

Well, Mr. President, a hearing has been held over on the House side. For the life of me, I do not see what there is to hold a hearing about Everything that can be said for the other side, I think has been said. We have had about as much discussion here on the Senate floor as there was when the House held their hearing.

So, Mr. President, it seems to me we ought to go on ahead and vote and let the Senators' consciences be their guide, which is what I think we will do.

Mr. HELMS. Mr. President, if no one else has any desire to speak, I yield back the remainder of my time.

M. LONG. Mr. President, I yield back the remainder of my time.

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

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Indiana (Mr. LUGAR), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. METZENBAUM). Are there other Senators desiring to vote?

The result was announced—yeas 42, nays 45, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—42

Armstrong	Hatfield	Morgan
Bayh	Hayakawa	Pressler
Bellmon	Heflin	Roth
Bentsen	Heinz	Schmitt
Bumpers	Helms	Schweiker
Cohen	Hollings	Simpson
DeConcini	Humphrey	Stevens
Dole	Jepsen	Stewart
Domenici	Kassebaum	Talmadge
Durenberger	Laxalt	Thurmond
Durkin	Leahy	Tower
Garn	Levin	Wallop
Glenn	Magnuson	Warner
Hatch	Mathias	Zorinsky

NAYS—45

Baucus	Ford	Pell
Biden	Huddleston	Percy
Boren	Inouye	Proxmire
Boschwitz	Jackson	Pryor
Burdick	Javits	Randolph
Byrd, Harry F., Jr.	Johnston	Ribicoff
	Long	Riegle
Byrd, Robert C.	Matsunaga	Sarbanes
Cannon	McClure	Stennis
Chiles	Melcher	Stevenson
Church	Metzenbaum	Stone
Cranston	Moynihan	Tsongas
Culver	Muskie	Weicker
Danforth	Nelson	Williams
Eagleton	Nunn	
Exon	Packwood	

NOT VOTING—13

Baker	Gravel	Sasser
Bradley	Hart	Stafford
Chafee	Kennedy	Young
Cochran	Lugar	
Goldwater	McGovern	

So Mr. HELMS' amendment (No. 1442) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Several Senators. Third reading.

UP AMENDMENT NO. 941

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina has 7 minutes remaining. The Senator from Louisiana has 30 minutes remaining.

Who yields time?

Mr. THURMOND. Mr. President, if the distinguished manager wants to yield back his time, I will yield back my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 941) of the Senator from South Carolina. All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Indiana (Mr. LUGAR), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

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

The result was announced—yeas 60, nays 27, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—60

Armstrong	Hayakawa	Pryor
Bayh	Heflin	Riegle
Bellmon	Heinz	Roth
Bentsen	Helms	Sarbanes
Biden	Hollings	Schmitt
Bumpers	Huddleston	Schweiker
Byrd, Harry F., Jr.	Humphrey	Simpson
Church	Inouye	Stafford
Cohen	Jepsen	Stevens
Culver	Kassebaum	Stewart
DeConcini	Laxalt	Stone
Dole	Leahy	Talmadge
Domenici	Levin	Thurmond
Durenberger	Magnuson	Tower
Durkin	Mathias	Tsongas
Ford	Matsunaga	Wallop
Garn	McClure	Warner
Glenn	Melcher	Weicker
Hatch	Morgan	Zorinsky
Hatfield	Nunn	
	Pressler	

NAYS—27

Baucus	Eagleton	Packwood
Boren	Exon	Pell
Boschwitz	Jackson	Percy
Burdick	Johnston	Proxmire
Byrd, Robert C.	Long	Randolph
Cannon	Metzenbaum	Ribicoff
Chiles	Moynihan	Stennis
Cranston	Muskie	Stevenson
Danforth	Nelson	Williams

NOT VOTING—13

Baker	Gravel	McGovern
Bradley	Hart	Sasser
Chafee	Javits	Young
Cochran	Kennedy	
Goldwater	Lugar	

So Mr. THURMOND's amendment (UP No. 941) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

CORRECTION OF THE RECORD—UP AMENDMENT NO. 939

Mr. DOLE. Mr. President, in reading the daily edition of the RECORD of last night's proceedings, I noted a printing error. On page S. 641 of yesterday's RECORD unprinted amendment No. 939 appeared. Unprinted amendment No. 939 is my MediGap amendment to the unprinted amendment No. 938 of Senator BAUCUS. In the third line of section 2(B)(ii) the word "continuing" appears. That word should have been "counting". The phrase should read "In counting such days" not "in continuing such days" as it appears in the RECORD.

Mr. President, I ask unanimous consent that the permanent RECORD be corrected to substitute the word "counting" for the word "continuing" in unprinted amendment No. 939. I note, Mr. President, that the official copy of the bill correctly uses the word "counting" and is thus consistent with the change I propose in the permanent RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, and I am not going to object, but I suggest to my good friend from Kansas that hereafter when he wants to correct the permanent RECORD, he simply prepare a memorandum and send it down there and save us the time of listening to all this because he knows we are going to give him consent, and we will. We always try to give the Senator consent if he wishes to correct something as he properly should.

And I congratulate the Senator for finding that error in the RECORD and seeing that those who read the RECORD can have no doubt about this particular matter.

Mr. DOLE. That is right. The reason I did it publicly is the Baucus amendment was a matter of some controversy, and I indicated to Senator BAUCUS that I discovered this error myself in reading the RECORD. So I just wanted to make certain that I did it openly in case someone was listening in the Senate offices.

Mr. LONG. Mr. President, reserving the right to object, and I shall not object, let me urge that all Senators hereafter should read this RECORD and see that not only what they said was correctly quoted but to see what other people say was correctly quoted and that the amendments were properly numbered because it would be very bad at some point in the future if people would have a serious misunderstanding that something happened because of a technical error.

I congratulate the Senator. He is doing a duty that many Senators fail to do.

Mr. DOLE. I thank my distinguished chairman.

Mr. LONG. Most Senators do not read the RECORD. If they do, they only read what they said. They do not read what the other Senator said.

Mr. DOLE. That may be what the Senator from Kansas was reading.

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

Mr. DURENBERGER. Mr. President, I rise to apologize for not reading the RECORD and in support of H.R. 3236, the Disability Insurance Reform Amendments of 1979.

The legislation is an important reform in our Federal disability programs. One of the problems with existing law is that there is no incentive for the disabled to return to productive employment. In fact, the current program is a disincentive to work. If a worker who has become disabled attempts to return to work, the worker loses all the benefits provided under the disability insurance program. The most important loss is medicare health insurance. At the same time, few employers want to hire a disabled worker because of support costs such as medical insurance.

Other problems exist in the disability determination process and in the vocational rehabilitation program. The determination process is the procedure by which disability status is decided. The vocational rehabilitation program is our rather limited effort to teach new skills to disabled workers.

These are some of the issues addressed by H.R. 3236. I am particularly interested in the work incentives provided by the legislation. In fact, when it appeared that the bill was stalled in the House of Representatives, I introduced legislation, S. 1643, which separated out the work incentive provisions in H.R. 3236. My intention was to amend any available piece of legislation to insure passage of the provisions. Fortunately, the legislative process moved forward, and we are now able to act on the entire bill.

The bill before the Senate today has several sections, and I would like to comment on the major provisions.

The first, and most controversial matter, is the cap on the auxiliary, or dependent benefits under social security. The bill is one of those bittersweet pieces of legislation which requires the Senate to reconcile social concerns with economic reality. The disability insurance program is funded from one of the trust funds established by the Social Security Act. Demographic and economic factors have disrupted the financial stability of all of the trust funds. To maintain the solvency of the trust funds, we have two choices. One, we can increase the tax rate on workers who provide the revenue for the trust funds. This, we have done. Second, we can limit the benefits allowed under the program. We should not limit the primary benefits of our retirement and disability insurance programs. On the other hand, we do have to make a decision on what we can afford in the way of auxiliary benefits. This is the bitter decision which we have to make in H.R. 3236.

The second major section is the work incentives which are designed to encourage beneficiaries to attempt to return to work and leave the disability rolls. My interest in this matter was prompted by the work of the Control Data Corp., in developing innovative work support systems for the severely disabled. When the Senate Finance Committee held hearings on H.R. 3236, Gary Lohn from Control Data presented testimony on their endeavor, known as project homework. I ask unanimous consent to have Mr. Lohn's testimony included in the RECORD at this point.

The work incentives section has six features. These features are:

Authorize the Social Security Commissioner to develop and carry out demonstration projects designed to encourage work activity by disabled beneficiaries.

Provide that extraordinary expenses needed to permit a severely disabled person to return to work would not be counted as a part of the amount of earnings (current substantial gainful activity (SGA) level is $280 per month) that cause the person to lose benefits.

Extend the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period, the individual would not receive benefits if he earned over the SGA amount, but would retain his eligibility for benefits if he finds he must return to the disability rolls.

Allow disabled widows and widowers to have the benefit of the trial work period.

Extend medicare coverage for an additional 36 months to beneficiaries who have gone back to work but have been suspended or terminated from benefit status as a result of substantial earnings.

Eliminate the second 24-month waiting period for medicare which a beneficiary presently must undergo if he tries to re-

turn to work but then finds he must return to the disability rolls.

The passage of the work incentive provisions will have two beneficial results. First, it would be a positive step toward saving taxpayer's money in that social security disability benefit payments would be reduced and disabled workers returning to productive employment would again be contributing to general tax revenue through their earnings. Second, and more important, the incentives would make it possible for disabled people to work and, consequently, increase their self-esteem, independence, and sense of self-worth.

A third objective of the bill is to improve the disability determination process. Currently, the determination process is a joint Federal-State effort. There is some concern that at the State level there is not a uniformity of decisions, nor is there a consensus on the criteria used to determine disability by the Senate agencies.

The committee provisions would improve the Federal management and control over the State operations. Performance standards would be established by HEW. Also, the committee would reestablish the review procedure used by the Social Security Administration to insure a prompt and proper determination process. These changes represent important improvements in the administration of the disability insurance program.

The committee has also liberalized the vocational rehabilitation provisions in existing law. There is some concern, and confusion, over the cost/benefit ratio of vocational rehabilitation expenditures. Data reported to the commerce indicated a very limited benefit to cost ratio for rehabilitation programs. However, other data indicated a very positive response. The committee has wisely decided not to limit the program. In fact, the committee has agreed to allow the continuation of disability benefits to an individual in a rehabilitation program even though the disabled worker may have been determined to have medically recovered. The continuation of benefits would permit the worker to complete the program and return to work.

There are two Federal programs on disability, social security disability insurance and supplemental security income. The first is an insurance program, funded by a payroll tax on workers. The second is a welfare program funded from general tax revenue. The House of Representatives has approved legislation to improve both programs, but in the process made the SSI program more liberal than the disability insurance program. Separating the two programs is a mistake, and the Finance Committee correctly decided to maintain the same standards for both programs.

The committee bill contains one last provision on which I would like to comment. For several years, the Social Security Administration has tried to change the deposit period for social security payments by State and local governments. The change as proposed by the Administration would have created administrative difficulties for local governments. The committee has provided for a reasonable deposit period, and I would hope that the House would accept the committee proposal.

On the whole, the disability amendments bill is a worthwhile bill, and I wholeheartedly support this measure.

Mr. President, I ask unanimous consent that a statement by Gary H. Lohn, vice president, public affairs, Control Data Corp., Minneapolis, Minn., be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY GARY H. LOHN

Mr. Chairman and Members of the Senate Finance Committee:

I thank you for allowing me to address this session on such an important and critical issue; the rehabilitation of this nation's severely disabled population.

I am Gary H. Lohn, Vice President of Public Affairs for Control Data Corporation in Minneapolis, Minnesota. I am accompanied by Kenneth L. Anderson, Manager of Control Data's homebound employment program, Homework. As you know, there is an increasing taxpayer resistance to government spending which is adversely impacting the required public funding. There is, in addition, the increasing competition for the existing dollars as advocates for a number of movements sharpen their lobbying skills. The result is an on-going struggle for dollars to support the programs that can help handicapped persons achieve their greatest potential and independence.

As that public sector funding fails to increase (or even keep up), a larger role emerges for the private sector. As a recent Health, Education, and Welfare report indicates: "The private sector role in developing and providing services must have greater recognition as federal and other government funding becomes more restrictive." The time is long overdue for a more aggressive partnership between the public and private sector in order to address major societal problems.

One of Control Data's primary business strategies is to identify societal problems and address them as business opportunities. Control Data adopted this strategy some twelve years ago. It has been pursued vigorously and has proven sound. Although we undertake some social programs because they are "the right thing to do", we view the major, unmet needs of society as opportunities for business, generating profits and providing jobs. Some examples of Control Data's programs that address major social needs include: (1) Building manufacturing facilities within deteriorating inner cities and creating new employment opportunities. (2) Providing computer technology and managerial resources to improve the delivery of health care services on Indian Reservations. (3) Providing computer-based education programs to prepare young, disadvantaged, unemployed persons to get and keep a job.

More recently Control Data has become involved in developing special programs for persons who are severely disabled. It is Control Data's extensive involvement with these programs that has permitted us to become aware of the disincentives facing persons who are severely disabled. But who want to and who are qualified to work.

The central program is Homework and is based on Plato computer-based education. It is important to note that Plato is a computer-based interactive educational network system that allows students to learn at their own pace. Students interact with the system through a special terminal with a keyboard and a TV-like screen.

The screen presents lessons stored in the computer in the form of graphs, drawings, text and photographs. Audio features allow material to be presented in this mode. There is the potential for many modifications to adapt Plato for use by persons whose disabilities vary over a wide range. One of the most important features of Plato is the ability for students to communicate with one another—that is, peer interchange whereby they can readily help each other. Instructors also communicate with students and vice versa. Instructors and students involved in the same course can be located in different parts of the country.

The objective of the Homework program is to provide training and employment alternatives to the severely disabled homebound population. Currently, there are more than two million Americans classified as being homebound because of a severe mental and/or physical disability.

Homework evolved within Control Data Corporation because we have many severely disabled homebound employees. Tragically, this same group of people has a wide range of unused skills and capabilities. Therefore, a project was created to identify training and job opportunities for them using a Plato terminal.

The first Plato terminal was installed in August 1978 in the home of one of the first twelve homeworkers selected. The initial work identified for the homeworkers to perform was designing, developing and evaluating educational courseware. Depending on their interest, experience and skill, each participant was trained to perform one of these three functions via the Plato terminal. The end product of Homework is educational courseware to be marketed by Control Data and delivered via the Plato system.

Control Data has expanded homebound employment during 1979, making additions to the types of work performed that will include computer programming, remote student tutoring and other functions.

Homework brings the Plato terminal into the home—providing training and education as well as a means of communication for the disabled person. A counselor participates in the computer network along with the other employees. It is truly a network of disabled persons with varying disabilities learning different skills at different rates but sharing the learning experience.

Homework is not intended to be restricted to Control Data employees. With progressive legislative change, Homework will become an employment alternative for the disabled population throughout the nation. In fact, other major employees have contacted us to assist them in developing a program like Homework for their disabled population.

Control Data's experience with Homework is most encouraging. Some of the benefits are as follows:

Health care costs for the Homework participants have decreased 50 percent to 75 percent. Physicians of Homework participants are telling their patients that because of Homework, regular visits to the doctor are no longer necessary. A physician from Dayton, Ohio stated:

"I think Homework is a tremendous program . . . Control Data has given my patient something I never could—a new interest in life and a new meaning. She is gloriously happy that there is a possibility to make her own way in the world again, and be independent of government and insurance company handouts."

Self-concept and confidence level have increased substantially.

Improvement in family relations have occurred.

Higher level of self-care is realized.

Enhanced intellectual and cognitive functioning is apparent.

These preliminary findings parallel the results from a seven year study on homebound rehabilitation sponsored by the Federation of the Handicapped and funded by

the Department of Health, Education and Welfare.

Our major problem with the Homework program relates not to the ability or enthusiasm for work, but to the impact this program has on individual insurance benefits, both public and private. As we initiated the Homework program we sought and received cooperation from private insurance carriers to safeguard the Homework participants from losing their benefits. However, current Social Security legislation prohibits this same flexibility within the public sector. Because of the tremendous anxiety felt by each Homework participant over the thought of losing his or her Social Security benefits. Control Data has guaranteed to reimburse each participant his or her total Social Security disability insurance benefit should it be discontinued as a result of the individual's participation in Homework.

Obviously, this program cannot significantly impact the 2.8 million Social Security Disability Insurance recipients with these restrictions. The disincentives for both the disabled person and a private employer are too great.

When I speak of disincentives, I mean the barriers or obstacles that prevent a disabled person receiving Social Security Disability Insurance benefits from becoming employed. These substantial barriers include:

The fact a disabled person is only allowed to earn a maximum of $280 per month (the amount defined as substantial gainful activity) before his/her benefits are jeopardized.

The fact a disabled person has only one trial work period in his/her lifetime.

The fact a disabled person must wait two consecutive years after becoming eligible for Social Security Disability Insurance benefits to be eligible for Medicare.

The fact a disabled person who attempts employment, and, after losing his Social Security benefits plus Medicare, fails to remain employed, must again go through the same two year wait for Medicare.

And finally, even if all the above conditions were remedied, a disabled person in need of special attendant care, or medical services such as prostheses still probably could not afford to work unless the costs directly related to maintain him/her were exempt from actual earnings when figuring substantial gainful activity.

Control Data is pleased to see the Congress address the many disincentives now inherent to Social Security law. We are convinced that changes must be bold and far-reaching. Based on our experience, we would suggest that the following provisions be included in legislation enacted by the Congress:

1. Substantial Gainful Activity Demonstration Projects as identified in HR. 3236. H.R. 3464 and S. 1643 should be broad enough to include a cooperative partnership between the public and private sector in addressing Substantial Gainful Activity levels and trial work periods. Participation of the private sector and disabled individuals must not only be encouraged, it should be driven with attractive incentives for all parties included.

2. The amount of money people can earn without losing their Social Security benefits should be at least at the level currently proposed in H.R. 3464. H.R. 3236 should contain similar language.

3. Control Data believes that the risks are too great for a severely disabled person to seek employment unless there is legislation introduced that addresses an offset of earned income with Social Security Disability Insurance benefits. While the specifics of such an offset are beyond the scope of this discussion, some meaningful level is required.

4. Extraordinary work expenses due to a severe disability must be excluded from earnings when figuring Substantial Gainful Activity. Examples of these work expenses include attendant care services, medical equipment, protheses and similar items and services which are essential in carrying out not only his/her employment responsibilities, but also his/her normal daily functions.

5. The waiting period for Medicare eligibility (currently two consecutive years after financial eligibility is determined) should be non-consecutive and made shorter than the two years now required and proposed. For those who have previously qualified for Social Security Disability Insurance and Medicare, and have subsequently returned to work only to fail, the waiting period for reinstatement of both Social Security Disability Insurance and Medicare should be reduced to zero. This would significantly reduce the risks facing a disabled person seeking to at least try meaningful employment once again.

It is apparent that Social Security legislation being considered by this Committee does contain many salient components that will provide the incentives for persons severely disabled to seek and retain meaningful employment. However, we recognize that the Congress may not be ready at this time to incorporate all the necessary changes into one major bill. As an interim measure, we are pleased to support legislation such as S. 1643 authored by Sen Durenberger of Minnesota which proposes cooperative research and demonstration projects. We feel such legislation should explicitly state its legislative intent to not merely allow, but encourage private sector participation in these research and demonstration projects. We are convinced that within a few years of experience with these cooperative research and demonstration projects, sufficient knowledge will be gained to provide the valuable data required to consider permanent legislative changes.

Mr. Chairman, thank you for opportunity to present Control Data's views on this critical issue.

The PRESIDING OFFICER. Is there further amendment to be proposed?

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

The PRESIDING OFFICER. On whose time does the Senator suggest the absence of a quorum.

Mr. DOLE. Equally.

Mr. LONG. Mr. President, I ask unanimous consent that the quorum call not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 942

(Purpose: To provide for review by the Secretary of decisions made by administrative law judges under the disability program)

Mr. LONG. Mr. President, on behalf of the Senator from Oklahoma (Mr. BELLMON) I send an amendment to the desk and ask that it be stated.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I do not think the Senator from Oklahoma will object to our agreeing to his amendment. I am told this is an amendment we could very well agree to.

Mr. DOLE. Mr. President, as far as the Senator from Kansas is concerned, I do not object.

Mr. LONG. If the Senator does not object, I suggest we agree to it.

Mr. DOLE. Has it been offered?

Mr. LONG. Yes. If the Senator will be kind enough to join me in offering the amendment on behalf of the Senator from Oklahoma, because he wanted to offer the amendment, I am told, I am happy to offer it, and I do not know of anyone in the Senate or on our committee who objects to someone agreeing to his amendment. I thought I would go ahead and offer it for him rather than wait to bring him in here.

Mr. DOLE. We are attempting to contact the Senator. I was going to suggest that to save him a trip to the Chamber, that we could offer it.

Mr. LONG. If he wishes to come speak to it, he may, but he can speak to it subsequently or put it in the RECORD, however he wishes. In view of the fact that we are going to accept it, I wish to offer the amendment.

Mr. President, I ask that the clerk simply read the full amendment because the amendment itself is explanatory.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

On page 58, after line 25, insert the following:

"(g) The Secretary of Health, Education, and Welfare shall implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act; he shall report to the Congress by January 1, 1982 on his progress, in his report, he shall indicate the percentage of such decisions being reviewed and describe the criteria for selecting decisions to be reviewed and the extent to which such criteria take into account the reversal rates for individual administrative law judges by the Secretary (through the Appeals Council or otherwise), and the reversal rate of State agency determinations by individual administrative law judges.'".

On page 59, line 1, strike out "(g)" and insert "(h)".

On page 59, line 15, strike out "(h)" and insert "(i)".

On page 67, line 16, strike out "(h)" and insert "(i)".

● Mr. BELLMON. Mr. President, this amendment requires the Secretary of Health and Human Services to implement a procedure for reviewing a sample of decisions made by administrative law judges. The decisions to be reviewed under this mandate are ones in which administrative law judges have reversed State denials. My amendment will strengthen one of the weakest links in the disability adjudication process, and also help insure the equitable treatment of claimants.

Mr. President, there is almost no disagreement that the appeals process in the disability program is costly and time consuming. Disability cases that go up through the whole appeals ladder take more than 1 year to process. This has led to serious complaints that the social security hearing process is slow and inefficient. This is partly due to the increased number of appeals cases filed

each year which lead to backlogging in the appeals process.

The number of disability cases appealed has dramatically risen over the years. As the Committee on Finance's background report on the program points out, there were only 43,000 hearing requests in 1970. But in the first 8 months of 1979, 206,000 cases had been received for a hearing.

While much of the increase in the number of appeals can be attributed to the overall growth of the disability program, there is considerable evidence that there are other factors involved as well. Cases that are appealed to the administrative law judge level have a very high probability of being reversed in favor of the claimant.

Mr. President, the reversal rate has increased from 39 percent of all cases heard by the administrative law judges in 1969 to better than half, or 52 percent of all cases heard in 1978.

What concerns me, Mr. President, is that if a claimant knows he or she has nothing to lose by appealing a case all the way through the appeals process, and has in fact better than a 50 to 50 chance of having his or her case reversed favorably, then this will undoubtedly add to the number of cases appealed. It may be that, instead of insuring justice, the hearing process may be rewarding persistence.

Much of the problem has to do with the administrative law judge decisionmaking process itself, which is highly individualized. The judges are independent and differ in their procedural methods on hearings. According to the Finance Committee's report, the judges develop and decide cases in very different ways, some relying heavily on consultative medical examinations and others not, and some using vocational specialists a great deal in deciding cases while others do not. This has led to a great degree of variation in reversal rates among judges. Some have become known as "easy" judges, others as "hanging" judges. There seem to be more "easy" judges than "hanging" judges, however. The Finance Committee report points out that 87 percent of the judges reversed 46 percent or more of the cases they heard. This seems to be an exceptionally high number of judges who reverse, on the average, almost half the cases that come before them.

These data indicate why the judges are considered by many experts to be the weakest part of the process. When you consider the individualized and independent style of the judges, combined with the highly subjective nature of many disability cases, there is the great potential for widely varying decisions and high reversal rates. Contributing to this are the factors which the judges must take into consideration when deciding a case. The use of vocational factors in considering a case makes the decision very subjective and heavily dependent on the individual judge's views. This has led to variations in reversal rates among judges and has brought concern that claimants are being treated differently.

The Social Security Administration has attempted to improve the situation by issuing a set of "vocational regulations" as guidelines for deciding cases. As yet, this has not had any effect on slowing the increase in reversal rates. Indeed, the rate has continued its upward climb. More regulations are not going to do the job. We need a method to review the decisions made by the judges so that there is greater consistency among different judges and better assurance that disability awards are not being granted inappropriately in a large number of cases.

The variations in reversal rates promotes inequitable treatment of claimants, Mr. President. It means that if you happen to get assigned to a judge who is lenient, you stand a better chance of getting a favorable decision than if you get one of the tougher judges. This is not fair or equitable.

The Secretary already has authority to review and reverse both determinations made at the State level and decisions by Federal administrative law judges. By regulation, the Secretary has set up an appeals council to handle this responsibility. This council reviews cases appealed beyond the ALJ level by applicants who are turned down by ALJ's. Until 1975, the appeals council also reviewed a selection of ALJ decisions that were not appealed. In other words, the council selected and reviewed some decisions in which ALJ's reversed State denials. The appeals council could reinstate the State decision if it found the ALJ's reversal to be inappropriate.

The appeals council stopped making these so-called "own motion" reviews in 1975, apparently because of workload problems.

Nearly a year ago former Social Security Commissioner Stanford Ross testified that HEW intended to reinitiate these "own motion" reviews of ALJ decisions. Unfortunately, our checks with HEW indicate that there has been no real movement on getting these reviews going. This amendment will require them to get on with the reviews.

Mr. President, the Finance Committee has recognized the need to review State agency decisions on disability cases to help insure that claimants are being treated equitably and consistently, and to promote accuracy among the State agencies responsible for making disability determinations. This bill now before us has in it a provision requiring the Secretary of HEW to review 15 percent of State agency decisions in 1981, 35 percent in 1982, and 65 percent in subsequent years. My amendment will require the Secretary of Health and Human Services to set up procedures to review a sample of decisions made by administrative law judges, when those decisions are in favor of the claimant. This will help insure that claimants have their eligibility determined on objectve factors rather than by the luck of the draw as to whether they get an "easy" or a "hanging" judge. The amendment also requires the Secretary to report to Congress in 2 years on how this review process is working.

The bill as it now stands recognizes the need to review initial disability determinations by the States. I think the evidence shows that the hearing process at the administrative law judge is an even more questionable part of the system that needs careful monitoring. I urge approval of the amendment.●

Mr. LONG. Mr. President, I believe everyone understands what the amendment is.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I have no objection to the amendment. I am happy to vote for it, and I believe the Senator from Kansas feels the same way about it.

Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendment to be proposed?

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

The PRESIDING OFFICER. On whose time?

Mr. DOLE. Mr. President, I ask unanimous consent that it not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 742

Mr. BELLMON. Mr. President, I have introduced an amendment which has been printed. It is No. 742. I had intended to call up the amendment, but I have had some private discussions with the members of the Committee on Finance and I am assured there will be further consideration of this subject including hearings, within a short time. In order to help inform the Senate about the problem, I will make this statement for the RECORD.

Mr. President, this amendment deals with an issue in the bill that has not caused a lot of controversy or much discussion among disability beneficiaries or those concerned with the benefit aspects of this bill. But the section my amendment addresses, section 304, has caused quite a lot of consternation among State officials concerned with the administration of this program.

My amendment would prevent a far-reaching change in the Federal-State relationships that the House-passed bill and the Finance Committee's reported bill would both make. The committee has endorsed provisions of the House bill that would put an end to State management discretion in handling the disability determination aspects of the program. Indeed, if the language in the reported

bill is enacted into law, it is safe to predict that very few States will be performing these responsibilities a few years from now. The States will quickly hand their role over to the Federal Government and we will wind up with a far more expensive system as a result.

The Finance Committee's report says and I quote:

Significant improvements in Federal management and control over State performance are necessary to ensure uniform treatment of all claimants and to improve the quality of decisionmaking . . . (Page 55, Report No. 408)

Mr. President, let me read excerpts from section 304 of the bill which states what HEW may do. Section 304 provides that HEW through regulations may specify, and again I quote:

The administrative structure and the various units of the State agency responsible for disability determinations . . . rules governing access of appropriate Federal officials to State offices . . . the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency . . . and any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determination.

Mr. President, if HEW is going to give directions in all these details what room is left for management discretion and ingenuity by the States? I do not think our colleagues on the Finance Committee intend this but it almost looks as if we are deliberately equipping HEW to coerce the States into turning over their role in disability determinations.

It appears that former Commissioner Ross of Social Security Administration was not at all accurate when he testified to the Finance Committee that the States and SSA were in general agreement on what they were trying to do. He went on to say that the Social Security Administration did not want to diminish the State's role in any way, but wanted the States to have the resources and support to play a major role, and that this section was not a way of achieving backdoor federalization. Mr. President, it does exactly that. Senator DURENBERGER was correct when he voiced his concern in the Finance Committee that these standards in and of themselves will force federalization on some States.

Section 304 of the bill clearly would give this Federal Government almost total control over the State units performing disability determinations. It appears there would be no area of a State's personnel, fiscal, or procurement systems which could not be addressed by the standards HEW would establish.

My amendment would have no effect on that part of the committee bill which provides for Federal reviews of State agency determinations. It would affect only that part of section 304 which would introduce a heavyhanded Federal regulatory approach in place of the present contractual relationship between HEW and the States.

If Federal-State relationships in disproving the problems do not all come from the States' side of the relationship. Indeed, State officials maintain that many of the problems which have arisen in the past are due directly to the Social Security Administration itself, and the inflexible administrative concepts that it forces on the States. These officials say that the Social Security Administration does not really negotiate contracts, but rather maintains a "take it or leave it" attitude.

I have received a letter commenting in some detail on this matter from Mr. Lloyd Rader, the director of the Oklahoma Department of Institutions, Social and Rehabilitative Services, outlining his serious concerns about section 304 of the bill. He states that if section 304 were to be enacted, Oklahoma would probably have no choice but to withdraw from the disability determination process. Mr. Rader's letter gives a clear explanation of the problem and reasons for this amendment, and I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF INSTITUTIONS
SOCIAL AND REHABILITATIVE SERVICES,
Oklahoma City, Okla., November 6, 1979.

Hon. HENRY BELLMON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR BELLMON: It has come to our attention today, through a recent Senate Finance Committee Press Release, reporting the work of that Committee on H.R. 3236, the "'Disability Insurance Amendments of 1979," that the Committee adopts, apparently without change, certain House-passed language relating to the disability determination process for Titles II and XVII of the Social Security Act. As you know, this Department determines the disability of Oklahomans for these programs on behalf of the Social Security Administration under an Agreement authorized under current law. That law would change if this bill passes, and not for the better. We have discussed our concerns about Section 8 of H.R. 3236 with Mr. Fulton and other members of the staff of the Senate Budget Committee on several occasions. We wrote the enclosed letter to Senator Boren, early in October to alert him to our concerns. We would now ask your help in challenging this section on the floor of the Senate because we strongly feel that the solution to the particular problems the Senate and the House of Representatives are addressing is not to be found in greater and greater Federal control.

Section 8 of the bill directs the Secretary to develop "regulations or other written guidelines . . . specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the Disability Insurance Program throughout the United States." These guidelines may include mandating a specific structural organization, directing the specific relationship between a disability unit and other State organizations performing services for that unit, the physical location, personnel standards, and even pay scales of the employees of the unit. Conceivably, there is no area of a State's personnel, fiscal or procurement systems which could not be altered by these standards. In the name of "uniform administration," a very flimsy mask indeed, the bill effectively federalizes the entire process and in so doing totally preempts State laws under which these units are supposed to function like all other State agencies.

The history of the relationship between the Social Security Administration and the States, in this area, has seen a progressive deterioration specifically because of the Federal attempt, through its contracts with the States, to unilaterally preemp any kind of State control over these units. Frankly, and quite to the contrary of Mr. Ross' recent testimony, the contract mode, if it has failed, has failed only because of SSA's consistent, dogged, obstreperousness. Repeated attempts of State representatives to work out problems in the contract have been uniformly met with a "take it or leave it" attitude on the part of SSA representatives and an absolute refusal to even try to achieve a mutually agreed upon resolution. Had the Social Security Administration ever attempted to negotiate with the States the broad standards of service to the disabled on which we definitely agree, instead of wrapping inflexible, day-to-day administrative structures around us contractually, the current estrangement between the States and SSA would not exist. Enclosed, by way of example, is a letter we recently received from Mr. David Pingree, Secretary of the Florida Department of Health and Rehabilitative Services. He clearly shows that Florida now is one of 29 States in the Union which have refused to sign SSA's Agreement because of continuing Federal attempts to preempt and indeed wreck State attempts to organize and supervise the administration of its own governmental functions. Section 8 of H.R. 3236, rather than removing the Federal entanglement, in day-to-day affairs, would clearly exacerbate that relationship, and render State participation in the disability determination process a complete nullity.

We signed this year's Agreement with the Social Security Administration, but only after long deliberation and discussion about the restrictions SSA forced upon us. Our decision was ultimately based on our overriding concern for the disabled citizens of Oklahoma, who, under the Oklahoma Constitution, our Department is charged to serve. If H.R. 3236 passes the Senate with Section 8 intact, I cannot see Oklahoma participating in the process any further. The complete disregard of State's concerns or interests in the program, evidenced first by the Social Security Administration, and now, potentially, by the Congress, can only hurt these same disabled citizens of Oklahoma and will only swell the Federal bureaucracy, which some would argue is already overstuffed.

Any help which you could give us in modifying or deleting this onerous provision, would be sincerely appreciated.

Very truly yours,

L. E. RADER,
Director of Public Welfare.

Mr. BELLMON. Mr. President, I have heard also from the Council of State Administrators of Vocational Rehabilitation on this matter. They have deep concerns about interference by HEW with the ability of a State to organize and manage its disability determination agency. They also are concerned that section 304 provides for no State input in the HEW regulation and rulemaking process beyond that given to any other group, even though the State agencies have had long periods of experience in the social security disability process. I ask unanimous consent that a letter from the Council of State Administrators for Vocational Rehabilitation be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COUNCIL OF STATE ADMINISTRATORS
OF VOCATIONAL REHABILITATION,
Washington, D.C., December 14, 1979.

HON. HENRY L. BELLMON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BELLMON: We appreciate this opportunity to respond to an invitation from your staff to give our reactions to and concerns over Section 304, of the Senate version of H.R. 3236, amending the Social Security Disability Insurance and SSI Disability Benefit Programs.

This organization, which is composed of the chief administrative officials of the State Rehabilitation Agencies responsible for administration of the State-Federal Rehabilitation Program in each of the states, finds itself in opposition to Section 304 for the following reasons:

1. It abandons the concept of the Federal-State partnership by agreement under which the Social Security Disability Program has functioned and substitutes regulations and other guidelines promulgated unilaterally by the Secretary as the sole basis for continued State Agency participation in the disability adjudication process.

2. It provides that the Secretary can unilaterally end participation by a State Agency on the basis of a finding that it has failed to adhere to his regulations and rules with no recourse other than the Secretary and with no provision to utilize State Agency personnel—the largest reservoir of disability development and adjudicative expertise available to the Disability Program.

3. The examples of matters which may be covered by the Secretary's regulations provide for what appear to be unwarranted invasion of and interference with the ability of a state to organize and manage its Agency, provide for its internal relationships, and distribute its components in a manner best calculated to result in effective and efficient operation in the light of the agency's experience and knowledge of its area.

4. It does not provide for any degree of State Agency input in the regulation and rule-making process, other than that afforded to any interested person or group, despite long State Agency experience in the Social Security Disability process.

5. The possibility that the Secretary could remove a significant number of State Agencies from the disability process on a unilateral basis poses a threat to the orderly continued operation of the Disability Program, since it does not appear that the Social Security Administration has the personnel with experience to carry it on successfully without great disruption and disadvantage to the persons it was designed to serve.

We hope, of course, that the powers vested in the Secretary by Section 304, if enacted, would be exercised with restraint and discretion and with full and meaningful consultation with State Agencies. However, the Section, as presently written, does not contain any such limitations.

We, therefore, have grave reservations with respect to its possible enactment.

Sincerely,

JOSEPH H. OWENS, Jr.,
Executive Director.

Mr. BELLMON. Finally, Mr. President, the possibility exists that the Social Security Administration could remove a significant number of State agencies from the program on a unilateral basis. This would be a great threat to the smooth operation of the disability program, since it is unlikely that SSA has the experienced personnel to perform these functions itself without great disruption and harm to the persons it was designed to serve.

Mr. President, we have a choice today between retaining a strong role for the States in the DI program or allowing a Federalization of the program to take place. In my view, the choice is clear. We must keep a strong State role in this program. We have seen from experience that federalizing programs is not a cure-all and does not insure that a program will be any better run or administered. Despite the moans and groans from the Social Security Administration about lack of uniformity in State administration of the program, there is no assurance that federalization would bring improvement. Make no mistake about it Mr. President, the provisions contained in section 304 can be used to coerce many of the States into handing over disability determinations to the Social Security Administration. The present Federal-State relationship should be maintained. HEW has ample leverage to deal with poor-performing States without the heavy-handed authority that would be added by section 304.

Mr. President, based on assurances that this matter will be further considered by the committee in an orderly and, hopefully, prompt fashion, I will therefore not call up the amendment.

DISABILITY INSURANCE TERMINATION

● Mr. BIDEN. Mr. President, I voted to support the amendment offered by Senator BAYH to eliminate the 5-month waiting period that terminally ill persons must now endure before they can begin to collect disability benefits.

Under present law, there exists a 5-month waiting period which must be completed before an individual may receive disability benefits. This is in addition to the period of time which they must wait until the initial disability determination is being made. Although such a waiting period may be justified in cases of individuals whose disabilities are of a long-term nature, the individual suffering from a terminal illness surely does not have the time to wait 5 months.

Catastrophic illness imposes a tremendous financial burden on both the person and his or her family. Most of ness is about $15,000. This cost can easily The American Cancer Society estimates that the average cost of a terminal illness is about $15,000. This cost can easily reduce a middle-income family to poverty, especially if the family has little or no health insurance.

It is estimated that if this amendment is approved it will provide approximately $1,620 to each disabled worker. This amount may seem insignificant but it can be very important to the worker and his or her family.

Terminal illness extracts a great emotional toll on both the individual and the family. Though there may be little that we can do to relieve the emotional strain through legislation, we can definitely help alleviate some of the financial hardship. To do anything less would be cruel.

I find it ironic that we earlier debated the Percy amendment and almost everyone agreed how terrible it was that aliens were getting into this country and were receiving SSI without having paid taxes. Now we have an amendment here to give disability payments to persons who have paid their taxes, who have contributed to the social security system and we are telling them that they must wait 5 months before they can receive their benefits. You may die in the next 5 months, you may incur catastrophically high medical bills, you may be facing the prospect of leaving your spouse with a huge debt to pay off once you are gone but you are just going to have to wait 5 months like everyone else before you get your benefits. Mr. President, I am glad that my colleagues here in the Senate voted to eliminate this inequity and supported the Bayh amendment.●

Mr. DOLE. Mr. President, H.R. 3236 was a very difficult bill to pass. It is much more difficult to cut spending programs than it is to increase spending. Many Members of this body have performed as statesmen during the consideration of this bill. A lot of tough votes were cast. I thank my colleagues for their responsibility. Particularly, I would like to congratulate the chairman.

The only thing more difficult than voting on the side of fiscal restraint is to stand on the floor of the Senate and argue against the efforts of colleagues to increase spending and decrease savings. The chairman has done just that for 3 days. He has held the line for fiscal restraint. I applaud him for his courage.

I would also like to thank the members of the Finance Committee staff, particularly Mike Stern, Joe Humphreys, Bob Lighthizer, Linda McMahon, and Sheila Burke, for their hard work on this bill.

Mr. President, this measure will not just cut benefits, and I hope it will not be cited for that alone. The work incentives and administrative changes in the bill will improve the DI and SSI programs immeasurably and help to bring many handicapped individuals into the mainstream of our economic and social life where they belong. The bill is an important contribution to efforts to improve the lives of the disabled, and I am happy to have participated in the process to bring it about.

● Mr. DECONCINI. Mr. President, H.R. 3236 posed an array of complex and perplexing issues and I did not arrive at my decision to vote against final passage lightly. The bill which the Senate has agreed to contained a number of beneficial revisions in the disability program. Against these however, must be weighed those provisions which substantially slashed benefit levels in an era of burgeoning inflation. These provisions, Mr. President, retroactively change the rules governing the benefits that would be available to those who are currently contributing to the system.

Millions of Americans in covered employment are continuing to pay an ever higher proportion of their income in payroll taxes. They have a right to expect that we, who are the fiduciaries of their interests in the benefits to which they are presumptively entitled under current law, will act to insure that that interest is effectively protected. And this, Mr. President, is where, in my estimation, the

legislation which we have passed today is fatally deficient. The changes it mandates in benefit levels are not inconsequential; they will impinge acutely on those families who are forced through misfortune to turn to our social insurance system from assistance.

For example, the average American family, with a 40-year-old employee earning $250 per week, a spouse and two children, under the current system would be entitled to a weekly disability benefit of $184, this constitutes a stringent budget for four persons, especially with two growing children.

But under the bill that we passed today, that already meager benefit level would be reduced to approximately $161 per week. This is a loss of $23 per week. To a family of this size this cut does not represent the loss of extravagances but of basic fundamental needs, such as food, shelter, and clothing.

I am well aware of the need for greater fiscal stringency and of how imperative it is that we bring this inflation under control. However, it is unreasonable and inequitable to wage this battle at the expense of the most vulnerable members of our society—the handicapped.

The savings achieved by this bill amount to $74 million over 5 years. In fiscal 1977, according to estimates by the HEW Inspector Generals Office, between $5.5 and $6.5 billion were lost due to fraud abuse and mismanagement by that Department alone. This is the kind of waste on which we must concentrate our efforts to bring Federal spending under control, not by breaking faith with the disabled.●

The PRESIDING OFFICER. Are there further amendments? If not, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment as amended, and third reading of the bill.

The amendments were ordered to be engrossed for a third reading, and the bill to be read the third time.

The bill was read the third time.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. LONG. I yield back the time.

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. BRADLEY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Indiana (Mr. LUGAR), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. STEWART). Is there any Senator in the Chamber who has not voted who desires to vote?

The result was announced—yeas 87, nays 1, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—87

Armstrong	Hatfield	Pell
Baucus	Hayakawa	Percy
Bayh	Heflin	Pressler
Bellmon	Heinz	Proxmire
Bentsen	Helms	Pryor
Biden	Hollings	Randolph
Boren	Huddleston	Ribicoff
Boschwitz	Humphrey	Riegle
Bumpers	Inouye	Roth
Burdick	Jackson	Sarbanes
Byrd, Harry F., Jr.	Javits	Schmitt
	Jepsen	Schweiker
Byrd, Robert C.	Johnston	Simpson
Cannon	Kassebaum	Stafford
Chiles	Laxalt	Stennis
Church	Leahy	Stevens
Cohen	Levin	Stevenson
Cranston	Long	Stewart
Culver	Magnuson	Stone
Danforth	Mathias	Talmadge
Dole	Matsunaga	Thurmond
Domenici	McClure	Tower
Durenberger	Melcher	Tsongas
Durkin	Metzenbaum	Wallop
Eagleton	Morgan	Warner
Exon	Moynihan	Weicker
Ford	Muskie	Williams
Garn	Nelson	Zorinsky
Glenn	Nunn	
Hatch	Packwood	

NAYS—1

DeConcini

NOT VOTING—12

Baker	Goldwater	Lugar
Bradley	Gravel	McGovern
Chafee	Hart	Sasser
Cochran	Kennedy	Young

So the bill (H.R. 3236), as amended, was passed.

Mr. BELLMON. Mr. President, I would like to have the attention of both floor managers of the bill which we just passed.

Mr. President, as the floor managers of this bill know, I have been a supporter of changes in the Nation's welfare laws ever since I came to the Senate. Two years ago, I joined with six of my colleagues in sponsoring a proposal to make major changes in our welfare programs. Our bill was S. 2777, introduced in March 1978. I was very pleased last year when the Carter administration scrapped its 1977 welfare proposal and submitted a revised proposal very similar to S. 2777.

I was further encouraged when the House acted last fall on the new Carter proposal and adopted it with relatively modest changes.

I remain very hopeful that the Senate will have the opportunity to take up a major welfare bill this session. It seems to me that a fairly broad consensus has evolved about what ought to be done. There is no longer the kind of division between the various advocates of welfare reform that there was back in the early 1970's when the Nixon administration's family assistance plan was rejected.

From what I know of his views, I think the chairman of the Finance Committee and I are relatively close together in what needs to be done to the welfare system. We have differences of opinion on a few issues, but we both agree that management must be tightened and that all reasonable steps should be taken to get recipients off the welfare rolls and onto payrolls.

First question: With these points in mind, I would like to ask the distinguished chairman of the Finance Committee what the plans of his committee are relative to taking up the House-passed bill and other welfare reform proposals.

Mr. President, I earlier talked to both Senator DOLE and Senator LONG about this matter. I would like to ask them when we could expect some welfare reform legislation to come to the floor. If they can tell me and the Senate something about their plans and also about the timetable, I would appreciate it. This session will go by fairly rapidly, from all appearances, and it seems that the later we get into the session, the less opportunity we will have to give consideration to welfare reform.

So I should like, if the floor managers will agree, to have an update on where we are on welfare reform.

● Mr. LEVIN. Mr. President, I share the sentiments which have been expressed by my colleagues (Mr. BELLMON and Mr. JAVITS). I am concerned with the incremental and piecemeal approach we seem to be taking to welfare legislation in the Senate.

The Senate recently passed a bill dealing with child welfare and foster care program but which also includes some major provisions on AFDC. Our colleagues in the House have taken a different approach in dealing with welfare legislation—they passed a single bill, patterned after the Carter administration's proposal, on November 7.

Mr. President, a major focus of public policy has been the elimination of poverty in America. Since the mid-1960's, there have been protests by officials and the public alike over the "welfare mess". Proposals have been advanced and introduced as legislation to reform the present system—none has so far passed the Senate, but the debate over welfare reform continues.

President Carter characterized the Federal Government's failure to deal with comprehensive reform of our welfare system in his May 23, 1979 message to Congress on the subject. He said:

I recognize that welfare reform is a difficult undertaking; no legislative struggle in the last decade has provided so much hopeful rhetoric or so much disappointment and frustration.

In his January 23 state of the Union address to a joint session of Congress, he said:

Our current welfare system is overdue for serious reform; the system is wasteful and

not fully effective. He went on to say: last year the House passed the Social Welfare Reform Amendments Act, which addresses the major problems in our cash assistance programs. This year, we must continue this momentum toward welfare reform. I am determined to do whatever I can to help enact the two bills needed for the most comprehensive reform of the welfare system in our history.

Mr. President, our current welfare system is a collection of overlapping and ill-coordinated programs designed to aid the poor. If current policy is allowed to continue, the programs that are designed to assist the poor will continue to be complex both for welfare recipients and program administrators. Benefits, regulations, and eligibility will continue to vary from State to State and from program to program. The fiscal burdens of States and localities will continue to vary widely depending on their financial resources and the priority they give to helping the low-income population. Much of the poor population will not be covered by any Federal cash assistance program, and many of the groups who are covered will continue to experience a high incidence of poverty because of the low benefits paid by some States.

A public welfare study conducted by the Subcommittee on Fiscal Policy of the Joint Economic Committee concluded as follows:

> Instead of forming a coordinated network in pursuit of well-defined goals, our Federal, State and local income maintenance programs are an assortment of fragmented efforts that distribute income to various persons for various purposes, sometimes on conflicting terms and with unforeseen effects.

It was further determined that:

> The habit of approaching problems in isolation has led to fragmented and inconsistent legislation and administration.

Mr. President, my belief that the welfare reform bill should be considered by Congress as a comprehensive measure is not solely based upon my concerns that the proposal would serve to assist welfare families in the 13 States where the minimum level of support in AFDC and food stamp benefits combined is less than 65 percent of the poverty standard. My State of Michigan, for instance, also needs a comprehensive welfare reform measure such as the one which recently passed the House.

Mr. President, Michigan has focused its welfare reform efforts in two areas: The development of a uniform national family policy and a more equitable Federal-State sharing of the country's welfare burden. In so doing, the State is attempting to address concerns also frequently expressed at the Federal level. Specifically, welfare reform legislation such as H.R. 4904 could significantly reduce error rates by standardizing the treatment of income and resources for the two largest welfare programs, AFDC and food stamps. Second, the oft-criticized antifamily bias of the programs would be greatly reduced by mandating both a national minimum benefit level and coverage of intact needy families through the AFDC-unemployed parent program.

The minimum benefit would insure an adequate level of assistance to needy families throughout the country. AFDC-unemployment parent coverage helps eliminate inequitable treatment of different categories of needy families and removes the need for wage earners to leave their families, and, thus, also removes a significant disincentive for employment. Refinements of eligibility criteria in the unemployed parent program would address specific problems found in Detroit and other urban centers. For example, removal of the work history requirement would enable young families with no work history due to the extraordinarily high unemployment rates in the inner cities to obtain needed assistance.

Provisions to increase fiscal relief and reexamine the matching formula for assistance programs simply recognize economic reality. Michigan is currently in a serious recession, approaching double-digit unemployment rate even as the national rate declines slightly. Yet we continue to be a net contributor to the Federal Treasury, even in a time of recession. Yet its matching rate is determined by the economic conditions that existed 3 years ago. These reforms are needed now, not several years down the road.

Mr. President, House bill, H.R. 4904, contains features which have received bipartisan support in the Senate in the past. It is my hope that the distinguished Chairman of the Finance Committee might indicate what the prospects are for a comprehensive welfare reform bill being sent to the floor this session.

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

Mr. BELLMON. Yes.

Mr. JAVITS. Mr. President, seven Senators have joined in a letter to Senator LONG relating to this bill and also to H.R. 3434 because of our concern that these bills would foreclose the likelihood of any effort to do better than we have on welfare legislation. This is a matter of crucial impact, as the Senators know, on large cities, and I represent the largest in the county. Indeed, if there is one single cause for New York's near bankruptcy in 1975, it is the amount that it has to deal with in welfare. Other cities and towns in New York are also feeling the tremendous burden. Those Senators signing this letter were myself and Senators BELLMON, TSONGAS, HART, COHEN, PERCY, LEVIN, and HATFIELD.

It is very significant, Mr. President, that this does not represent any ideological division. These are Senators of very different views on legislation generally, but we all could come together on this basic proposition. So I join Senator BELLMON, Senator LEVIN, and the other Senators whose names I have read in making this request of Senator LONG and Senator DOLE.

The House passed H.R. 4904 last November and we have every right to expect that, with over a year to deal with this critical matter, it will have hearings and that we can get something done on it before the end of this Congress.

Mr. LONG. Mr. President, the Senator from New York (Mr. MOYNIHAN) has been holding some hearings on welfare in his subcommittee, which has that subject matter under its jurisdiction. He has some more hearings scheduled in early February.

The Senate Committee on Finance is going to hold hearings on welfare and we shall cover the area that the Senator has mentioned, because this is a very important matter. It is of tremendous significance and importance to every State and every segment of the Nation and, in due course, we shall make our recommendations from the full committee.

I am not in a position to say the precise day that we shall be holding these hearings, because the first order of business is for us to dispose of the windfall profit tax and this pending measure.

After we finish the matters that we have in conference we will try to finish the health insurance bill, which has been the subject of hearings and we have been in markup on that for some time. I hope that as soon as we can process the windfall profit tax measure, which I hope will be within the next 10 days, I hope it will not take us more than a few weeks to report our views with regard to health. After that, Mr. President, I hope to move on to the welfare area. There may be some revenue bills that are of significance.

Mr. BELLMON. If the Senator will yield, as far as the Senator from Oklahoma is concerned, we can put the windfall profit tax off until very late in the session. That will be of great service to me.

Mr. LONG. I do not blame the Senator for feeling that way; I know a lot of Senators do. Of course, if we do not pass a windfall profit tax, the President is going to withdraw his decontrol plan, and we shall be left with the mess we had in 1978, prior to the time the President sent down his proposed decontrol plan. But as far as the Senator from Louisiana is concerned, I definitely plan to participate in hearings on welfare and to help put forth the best bill that we think we can recommend.

I think we all ought to understand one another, that there is always a difference of opinion about some of these measures. Some years back, someone asked me for my definition of tax reform. I said my definition of tax reform is whatever can muster 51 votes in the U.S. Senate. If you can get 51 Senators to vote to pass it, obviously, they think it is a reform because they would not vote for it if they did not think it is a change for the better.

My version of a welfare reform program is a "something-for-something" program. To me, the greatest reform we need in welfare is to pay people to do something, rather than paying all that money out for people to do absolutely nothing; pay people to be useful citizens, to put their hands on the ladder and start climbing up that ladder, rather than paying people to sit there and vegetate. I think there is a tremendous amount that can be done in that area and a lot has been done.

May I say, Mr. Lloyd Rader, out in the State of Oklahoma, has some fine ideas

and if permitted to do so by the Federal bureaucracy, he could show that a lot can be done and should be done by the local or State bureaucracy.

In my judgment, we ought to emphasize moving people into the mainstream, reducing dependency, rather than increasing it. In the judgment of this Senator, it is not going to require a huge amount of money. We ought to see that the money can be spent the way it ought to be spent; to improve people's lives, to achieve their hopes and ambitions, to reduce dependency, rather than increasing it.

I shall certainly consider the views of all other Senators and I shall invite the Senate now for when, in fact, in due course, I hold the hearings; I want to invite the Senator from New York now. I know it is not necessary, but just to avoid any misunderstanding, I am inviting the Senator from New York now to come and be a witness at those hearings and, if he wishes, to interrogate some of the witnesses.

Mr. JAVITS. If the Senator will yield to me, I hope we can do as well as we did this morning, but at that time, I hope I win.

If the Senator will give me just one word, which is important—I am very strong for the working poor and I think, from what the Senator says and from what I know of his reputation, so is he.

I cannot tell the Senator how important it would be if we could do a welfare reform for the working poor. Aid for the working poor would have a beneficial side effect for our cities.

All I ask the Senator is, let us move on it, that is all. We shall deal with his views, mine, and everybody else's, and I shall more than happily accept the invitation to be a witness. I hope it comes very soon.

Finally, before I yield the floor, I would like to digress a moment to say a few words about the bill we just passed. I felt I had to vote for passage of the committee bill, as amended, even though most reluctantly. The bill contains many positive provisions including those increasing incentives for beneficiaries to return to work and improving the administration of the program.

I believe, however, that the reductions in benefits through changes in the family cap provision and the 5-year dropout provision are ill-advised. I voted for the Metzenbaum amendment which would have largely restored the cuts due to the family cap change. I also sponsored my own amendment which would have restored large cuts in the family disability benefits for lower middle income individuals. Much to my regret, both amendments were defeated.

My vote in favor of final passage of the bill should be viewed as a statement that in conference with the House, the Senate should hold firm to its comparatively limited benefit reductions.

Mr. LONG. Let us understand that we are going to have hearings on welfare reform and welfare. It may not be what I think is welfare reform, it may not be what any Senator thinks is welfare reform, but it is going to be what 51 Senators think is welfare reform.

I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I reiterate the views expressed by the chairman of the committee and the other Senators. I do agree that we ought to finish legislation on the catastrophic health insurance proposal, which has wide support in the committee. It is the result of nonpartisan support, however one views it. It seems to me that there is some hope for an agreement on that.

Then, as far as this Senator is concerned, welfare reform would be coming along sometime thereafter. There are different approaches and some have more merit than others, at least in the eyes of those sponsors of the different versions. We believe the block grant approach has a lot of appeal. We hope to persuade other Senators to that view. But certainly, there are many options that we shall be considering.

I say for the Republicans on the committee that we want to assure Republicans and Democrats of our interest in welfare reform and willingness to consider it at the earliest possible time.

Mr. LONG. May I say to the Senator that I really do hope that the Senate will do better than it has done on this bill just passed with regard to attendance. The Senate is going to have some very fine and useful, thoughtful speakers, with a lot of good information to bring to this Senate.

It is a shame sometimes when we do the best we can to educate the Senate that we have to do it with very few Senators here and have to count on Senators absorbing something by word of mouth, not even getting it all, just a 30-second explanation of an amendment when they come to vote.

I hope we will be able to command better attendance on the Senate floor when we debate the welfare issue because we deserve a debate that would be in all respects a credit.

Mr. President, I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I join the distinguished chairman of the committee in the comments he made earlier about the success of certain programs which are being operated in Oklahoma by what we used to call the Welfare Department. It is now called DISRS—the Department of Institutions, Social and Rehabilitative Services. Mr. Lloyd E. Rader has been our Welfare Director—that is the way we think of him—for almost three decades. He has done a remarkable job in moving people off welfare rolls and on payrolls in spite of some very obvious impediments put in place by the Federal bureaucracy which I hope we will be able to remove when we get into a reform bill.

Mr. President, I urge, again, that we act on welfare reform in a very expeditious manner because if there is one thing the citizens of this country are fed up with, it is paying people for not doing anything.

I believe that we in the Senate have both the knowledge and the will to make changes in our welfare system so it can provide adequate help to people who are not able to help themselves, and at the same time bring an end to this business of subsidizing indolence. We can and we must make certain that people who can contribute to their own livelihood are required to do that.

Mr. LONG. I thank the Senator.

Mr. President, I look forward to the day when we will have the bill before us and will be discussing it.

Between now and then, however, if our plans can be assured, we are going to be here with a major health bill. I hope it will point us to what will be in the best interests of the Nation.

We will have something that is broader, I hope, than just a catastrophic illness insurance bill. But I hope it will at least cover catastrophic illness.

We will certainly try to provide the best answers in both areas.

Mr. President, I move that the Senate insist on its amendments to the bill H.R. 3236, I ask for a conference with the House thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. EXON) appointed Messrs. LONG, TALMADGE, RIBICOFF, NELSON, BAUCUS, DOLE, DANFORTH, and DURENBERGER conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill H.R. 3236 be printed as amended by the Senate.

Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes.

SOCIAL SECURITY AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, in the last 10 years, the cost of the social security disability insurance program—the Nation's largest disability benefit program—has jumped fivefold, from $3.3 billion to $16.1 billion. The number of recipients under the program grew from 750,000 in 1970 to almost 4.9 million in 1978; since then, the benefit rolls have remained fairly constant. In the next decade, it is projected that the cost of the program under current law will almost double to $30 billion.

In the 1950's, the Congress made the disability insurance program self-financing by enacting a relatively small tax on employers and employees. In recent years, Congress has been increasingly concerned with the size, cost, and financing of the program. Three years ago, Congress passed the social security disability amendments which helped to shore up the nearly bankrupt disability trust fund by scheduling significant increases in the social security tax rates.

The legislation passed by the Senate today, the Social Security Disability Amendments of 1979, is intended to insure the future financial viability of the disability trust fund. The bill alters the program so that it will adhere more closely to the original intent of Congress.

The legislation moderately reduces future benefits, while at the same time extending those benefits which are intended to give people the ability to return

to work. The reasoning behind these benefit changes is twofold. In the present system, some recipients under the disability insurance program have received more income from their benefits than they received while in the work force. In addition, the present system discourages some recipients from trying to return to work by completely cutting off benefits as they seek employment. Disabled individuals often have higher medical costs than the general population. The bill limits the loss of medical and social service benefits as recipients return to work.

The legislation passed today encourages a balanced approach to disability insurance by tightening benefits, establishing work-incentives, and improving the program's administration. I commend all members of the Finance Committee for their commitment to reforming the program. I would like to offer special thanks to Senator LONG, chairman of the Finance Committee, and Senator DOLE, ranking minority member, for their astute floor management of the bill.