SOCIAL SECURITY ACT DISABILITY PROGRAM AMENDMENTS

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 3236

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

H.R. 3464

AN ACT 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

OCTOBER 9 AND 10, 1979

Printed for the use of the Committee on Finance

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SOCIAL SECURITY ACT DISABILITY PROGRAM AMENDMENTS

TUESDAY, OCTOBER 9, 1979

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met at 2:40 p.m., pursuant to call, in room 2221, Dirksen Senate Office Building, Senator Russell Long (chairman of the committee) presiding.

Present: Senators Long, Baucus, Bradley, Dole, Danforth, Chafee, Heinz, and Durenberger.

[The press release announcing this hearing and the bills H.R. 3236 and H.R. 3464 follows:]

[Press Release]

FINANCE COMMITTEE TO HOLD HEARINGS ON SOCIAL SECURITY ACT DISABILITY PROGRAM AMENDMENTS

Senator Russell B. Long (D., La.), Chairman of the Senate Committee on Finance, today announced that the Committee will hold hearings on H.R. 3464 and H.R. 3236 and other proposals related to the Social Security Disability Insurance and Supplemental Security Income Disability programs.

The hearings will be held starting at 10:00 a.m. on Tuesday, October 9, 1979 in Room 2221 Dirksen Senate Office Building.

Requests to testify.—Chairman Long stated that witnesses desiring to testify at the hearing must make their requests to testify to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than the close of business on Thursday, September 27, 1979. Witnesses who are scheduled to testify will be notified as soon as possible after this date as to when they will appear. If for some reason the witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance. Chairman Long also stated that the Committee strongly urges all witnesses who have a common position or the same general interest to consolidate their testimony and to designate a single spokesman to present their common viewpoint to the Committee. This procedure will enable the Committee to receive a wider expression of views than it might otherwise obtain.

Legislative Reorganization Act.—Chairman Long stated that the Legislative Reorganization Act of 1946 requires all witnesses appearing before the Committees of Congress to "file in advance written statements of their proposed testimony and to limit their oral presentation to brief summaries of their argument." Senator Long state that, in light of this statute, the number of witnesses who desire to appear before the Committee, and the limited time available for the hearings, all witnesses who are scheduled to testify must comply with the following rules:

(1) A copy of the statement must be delivered to Room 2227 Dirksen Senate Office Building, not later than 5:00 p.m. on October 5, 1979.

(2) All witnesses must include with their written statements a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-sized paper (not legal size) and at least 100 copies must be delivered to Room 2227, Dirksen Senate Office Building, not later than noon of the day preceding the hearing.

(4) Witnesses are not to read their written statements to the Committee, but are to confine their oral presentations to a summary of the points included in the statement.

(5) All witnesses will be limited in the amount of time for their oral summary before the Committee. Witnesses will be informed as to the time limitation before their appearance.

Witnesses who fail to comply with these rules will forfeit their privilege to testify.

Written statements.—Persons not scheduled to make an oral presentation, and others who desire to present their views to the Committee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. Written testimony for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with 5 copies to Michael Stern, Staff Director, Senate Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than October 10, 1979.

[Press Release]

CHANGE OF TIME ANNOUNCED FOR FINANCE COMMITTEE HEARINGS ON DISABILITY PROPOSALS

The Honorable Russell B. Long (D., La.), Chairman of the Senate Committee on Finance, today announced that the time has been changed for the hearings to be held on proposals related to Social Security Act Disability programs. The hearings will be held starting at 2:30 p.m. on Tuesday October 9, and 2:30 p.m. on Wednesday October 10, 1979 in room 2221 Dirksen Senate Office Building. These hearings were described in Finance Committee press release No. H-60, issued on September 18, 1979. Copies of that press release are available in the Committee office.

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

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 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 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(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 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)".

(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.

(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 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 administration of this title.".

Passed the House of Representatives September 6, 1979.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

96TH CONGRESS
1ST SESSION

H. R. 3464

IN THE SENATE OF THE UNITED STATES

JUNE 11 (legislative day, MAY 21), 1979

Read twice and referred to the Committee on Finance

AN ACT

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 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 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

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) 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.

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

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.

(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. 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.

Passed the House of Representatives June 6, 1979.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

The CHAIRMAN. First, because he is due elsewhere, I would like to call on Senator Jackson. As I understand it, Senator Magnuson is tied up over in the Capitol Building, and he will not be here this afternoon. We will include his statement in the record.

We will be pleased to hear from our distinguished colleague from Washington, Mr. Jackson.

STATEMENT OF HON. HENRY JACKSON, U.S. SENATOR FROM WASHINGTON

Senator JACKSON. Thank you very much, Mr. Chairman.

I am appearing here on behalf of Senator Magnuson and myself. As you mentioned, he is chairing an Appropriations Committee hearing this afternoon, and regrets that he is unable to be present.

I would just like to take a moment, Mr. Chairman, of the committee's time on behalf of Senator Magnuson and myself to introduce Mr. Howard Dalton, on my left. Mr. Dalton comes from my hometown of Everett, Wash., and he will be speaking to you this afternoon on the merits of S. 1203, which will eliminate the 5-month waiting period for the terminally ill, so that they may become immediately eligible to receive social security disability benefits.

Mr. Dalton is himself a victim of cancer, and like many other Americans he has faced the prospect of terminal illness and has had to fight the odds which stand against him. However, unlike others who suffer this fate, Mr. Dalton has lead a crusade which, if successful, will help to ease the burden which so many terminally ill persons must bear. He has championed a cause which will bring immediate help to those who are most in need of assistance. I commend him to the committee for his brave and worthwhile efforts on behalf of all who must face and live with a terminal illness.

In this regard, Mr. Chairman, I appreciate your consideration in allowing Mr. Dalton to appear here out of order, and I would like to include at this point the statement of Senator Magnuson as well as my own.

The CHAIRMAN. They will be included in the record.

[The prepared statements of Senators Jackson and Magnuson follow:]

TESTIMONY OF SENATOR HENRY M. JACKSON BEFORE THE SENATE FINANCE COMMITTEE ON S. 1203 AS AN AMENDMENT TO H.R. 3236

Mr. Chairman, I appreciate the opportunity to address the Committee on behalf of S. 1203—a measure sponsored by Senator Magnuson and myself, and cosponsored by seventeen other Senators.

The bill is designed to eliminate the five month waiting period for the terminally ill so that they may become immediately eligible for Social Security disability benefits. Rather than go into the merits of the measure myself, I would like to introduce Mr. Howard Dalton who has traveled here from my home town of Everett, Washington, to testify on S. 1203.

Mr. Dalton is himself a victim of cancer, and like many other Americans, he has faced the prospect of terminal illness and has had to fight the odds which stand against him. However, unlike others who suffer this fate, Mr. Dalton has lead a crusade which, if successful, will help to ease the burdens which so many persons like him must bear. He has championed a cause which will bring immediate help to those who are most in need of assistance. I commend him for his brave and worthwhile efforts on behalf of all who must face and live with a terminal illness.

In this regard, Mr. Chairman, I appreciate your consideration in allowing me to take these few moments to introduce Mr. Dalton to the Committee.

STATEMENT OF HON. WARREN G. MAGNUSON

Mr. Chairman, Members of the Committee, thank you for giving me this opportunity to introduce Mr. Howard Dalton of Everett, Washington to the Committee. I am particularly happy to be able to introduce him today because a few months ago no doctor would have vouched that he would be alive to testify here.

Mr. Dalton learned that he had cancer late last year. Shortly thereafter he also found out that Social Security disability benefits were not immediately available for his medical bills. He learned that the law required a five-month waiting period for these benefits. Mr. Dalton's doctors were not sure he would live long enough for him or his family to receive any benefits. Mr. Dalton then began the two campaigns he is now struggling for: One for his life, the other for equity in the Social Security law.

I have the honor of co-sponsoring with Senator Jackson and Senator Bayh legislation to eliminate the five-month waiting period for disability benefits for terminally ill persons. Mr. Dalton is here today to testify on behalf of that bill. He can outline for you far better than I the impact of present law on the terminally ill and their families, and the importance of extending disability benefits to these people when they most need them; when they're alive.

Mr. Dalton is not only battling his own illness with vigor, but is also working on behalf of many others who suffer from terminal illnesses. I thank you again, Mr. Chairman, for giving me time to introduce this remarkable man to the Committee.

Senator JACKSON. I present Mr. Howard Dalton of Everett, Wash.

The CHAIRMAN. We will hear you right now. Go ahead and make your statement.

STATEMENT OF HOWARD DALTON, EVERETT, WASH.

Mr. DALTON. Thank you, Senator Jackson.

Gentlemen, as you know, my name is Howard Dalton. I am a lawfully registered alien, currently residing in Everett, Wash.

Today, gentlemen, 1,600 people will contract a devastating disease, 1,000 of whom will die. Those 1,000 souls will all have one thing in common, cancer.

As I sit here and address the most powerful people in the United States, you might consider the fact that at the height of the Korean conflict and Vietnam war our battle casualties were never that high.

Cancer, such an ugly word, but such a terrible reality, recently reached out and included myself in the above statistic. My family is no stranger to this most dreaded of all diseases. My mother recently had her voice box removed with cancer. My father died an agonizing death with melanosa carcinoma, and most recently my stepfather died with cancer of the lung, liver, and spleen.

Perhaps I can illustrate to this committee another way just how insidious and invasive this most dreaded of all diseases really is. Each of us here today either has already or will in the future be touched by this debilitating deadly disease. Cancer is no respecter of persons. Soon, too soon, someone you know personally, a friend, a loved one, or perhaps even yourselves will be stricken, hopefully it will be one of the cancers that we can conquer today.

If it is one of the 360,000 which will result in death, we should ask ourselves in what fashion can we help these people die with dignity.

You may not know when the surgeon tells you the news you really don't want to hear that several things will happen simultaneously. First of all, your career and ability to continue as the breadwinner come to an immediate halt, since it is almost a surety you will be attending hospitals for daily treatments. In my case I drive 60 miles a day. The therapy sometimes causes severe nausea, affects your taste buds and appetite so adversely that even your most favorite foods become nauseating to you. For many the rapid cosmetic changes as a result of radiation and chemotherapy, such as total hair loss, loss of body weight, are terribly traumatic and are terrible to behold.

Financially, the majority of cancer patients are quite suddenly placed under great hardships, at a time when their whole world is collapsing around them and they can least afford it.

If the recent happenings at Three Mile Island had resulted in even one death, this great country would have mobilized all of its great resources to prevent any further tragedy.

Gentlemen, as we sit here in these great chambers, discussing this terrible killing disease, which will eventually touch all of us in some tragic way, I urge you to vote affirmatively and eliminate the present 5-month waiting period for social security disability benefits. There are many, too many cases of which I have personal knowledge where the disability checks arrived on the day of death, or where the patient died just a few days too soon to collect any benefits, and these checks had to be returned to social security.

I understand that at this time having to subjugate humanitarian feelings and be really objective is going to be difficult, however, money was paid faithfully year after year by countless millions and it appears heartless to impose this 5-month waiting period on people who need that benefit now. With cancer patient this 5-month wait could be most, if not all of the rest of their lives.

Today, gentlemen, countless thousands are looking to you with hope in their hearts. I hope with all my heart that you will not fail them. Cancer patients need not necessarily be cancer victims, with a little help from social security those benefits would perhaps mean the difference between eating dinner tonight, and paying a few bills.

In the Washington Post, dated October 6, the Pope said:

> The worker, who by the sweat of his brow waters his affliction, must hope that his dignity be recognized fully. He has the right not to be deprived, through manipulations that at times amount to real thefts, of the little that he has; he has the right for his hopes to govern his growth and not be thwarted; the right to that fulfillment which is human dignity and his sonship of God claim.

At this time, gentlemen, I would like to introduce also the statement of the American Cancer Society for the record.

The **Chairman**. That will also be included in the record.

[The material submitted by the American Cancer Society follows:]

[From the Washington Post, Oct. 6, 1979]

What is He Really Saying?

(By Timothy S. Healy, S.J.)

The Roman Catholic Church, for all its extent and density, is extraordinarily sensitive to papal leadership. We talk easily of dominance by papal staffs (more menacing in Latin as the *Curia*); but the styles of Pius XII, John XXXIII and Paul VI have all shaped the church. Even John Paul I, the "September Pope" as the

Romans called him, rid us blessedly of coronations and enthronements. There is little reason to expect that the vigorous and pastoral John Paul II, in what promises to be a long sit on Peter's chair, will have any less impact on the church he loves and heads.

Any effort to spell out Pope John Paul II's agenda, either for the long run of his papacy or his immediate visit to the United States, must take into account his background. Polish Catholicism marks almost everything he says and does. Its proud nationalism, its discipline in the face of a deadly and powerful adversary, its long and intense suffering and its devotion to the Blessed Virgin—all are clear in the deeds and words of the new pope. He has survived the two tyrannical systems of the 20th century, communism and Nazism, so unlike each other an ideology and so very like in practice.

He is also a scholar and a poet. His philosophical studies took him deep into Husserl's world of phenomenology. If this gave him a reverence for facts, and a distrust of any effort to fit them into straitjackets of preconceptions, it will have direct import for his conduct of the papacy. Finally, as bishop and cardinal he is both architect and sharer in the post-conciliar church.

His personal gifts have had their fair share of coverage. Vigor is part of his charm, and an enormous reassurance to the church. Here is no effete figure, but a strong man whose body is very much a part of both his thinking and his loving. He has an extraordinary feel for people in crowds. It is too early to tell the constraints his struggles against tyranny have locked into his soul. He has however, in his talks in Mexico, clearly indicated one freedom tyranny gave him—a distrust of systems, and a refusal to allow the church to be tied into any political or economic orthodoxy. He seems to have a touch for the young, is not afraid of them, cares for them and can talk to them. Of all his gifts, this may in time prove the richest.

John Paul II will read the Universal Church strong in the experience of Eastern and not Western Europe. Our easy assumptions of freedom he has seldom been able to share. The want lists of highly developed societies are not familiar to him. His eastward look will show him a church in captivity. His demographic judgment will be as sound as his theology, and he will read right the numbers that pluck the hearts from lesser men. He has already heard the voice of 300 million Latin American Catholics who will, by the turn of the century, be 600 million.

His agenda will thus hardly be that advanced by Time magazine with such perspicacity and zeal for the reform of the Roman Catholic Church. No one can deny serious church concern for the five media topics (abortion, divorce, birth control, the ordination of women and the marriage of priests). This pope must ask whether or not the church is free to exist, or whether its people are murdered in the streets for believing in it, or whether its bishops are in or out of jail, or whether millions of its faithful are starving.

He is likely to find that expanding the agenda of the developed nations to the Universal Church would trivialize the pain and the anguish that must be his daily fare as he looks out on the world the church labors to save.

In the documents he has written one can sense the shape of his philosophical training. His focus is on man, on human worth, on human dignity, on man's rights to work, to education, to culture and to freedom. The word "dignity" must occur 30 times in the speeches and homilies he gave in Mexico. But John Paul II will never settle for the humanist agenda. He will work across to the second step—that is, man reborn in Christ. The church must bring wholeness even to the most beautiful reaches of the humanist vision of human society. The pope is a pastor, not a philosopher.

Mexico gave us the first serious soundings in his speech to the Third General Assembly of Latin American Bishops in Puebla. Most of it was written at home, and it is balanced, central and kind. It marches easily in the footsteps of Paul VI at Medellin 10 years before, far more than it was given credit for doing in the world's press. Again and again human dignity as "a gospel value that cannot be despised without greatly offending the Creator" is proclaimed. He talks of his own and Christ's identity with the "disinherited, the sick, the imprisoned, the hungry, the lonely," and speaks with horror of the "growing wealth of the few running parallel to the growing poverty of the masses." He then goes on to say that "we shall reach man, we shall reach justice, through evangelization."

The next day at Oaxaca, and two days later at Monterrey, he gave brief talks to workers in which a different spirit, almost a different man, emerges. In the seven days of his travels, the facts of life of the church in Latin America had had a chance to hit him head on. His focus is still on man, and as always on man reborn in Christ: "The dignity of the human person must prevail above all other things, which in turn must be subservient to man." The church is "not afraid to vigorously denounce all attacks against human dignity." "If humankind wants to get hold of a revolution which is getting out of hand . . . if it wants to insure true development of individuals and peoples, then it must revise in a radical form the concept of progress which under various names has left spiritual values behind it."

But the tone is different. We can feel him reach toward his hearers: "The worker, who by the sweat of his brow waters his affliction, must hope that his dignity . . . be recognized fully. He has the right not to be deprived, through manipulatons that at times amount to real thefts, of the little that he has; he has the right for his hopes to govern his growth and not be thwarted; the right to that fulfillment which his human dignity and his sonship of God claim."

And finally almost with menace: "For those of you who are responsible for the welfare of nations, powerful classes which at time keep the land unproductive and hide the bread which so many families lack, human conscience, the conscience of the nations, the cry of the deprived and above all the voice of God, the voice of the church repeats with me, 'It is not just, it is not human, it is not Christian.' "

The words in their sincerity fall like hammer blows, and the love behind them is clear. We do not know yet how much this pope will learn and how quickly he will learn it. He has already told us one thing that he, as the Vicar of Christ, wants—that the church address everything in its own house which "is not just, is not human, is not Christian."

One last word: anyone who thinks he comprehends the breadth and depth and length and height of this man's love—had best think again.

WRITTEN STATEMENT OF AMERICAN CANCER SOCIETY, INC.

Mr. Chairman, the American Cancer Society is deeply interested in enactment of S. 1203 which would remove the waiting period for Social Security disability benefits applicants where the disability is expected to result in death within 12 months.

The American Cancer Society asks no exclusive benefits for cancer patients but advocates the same relief for all patients in the category defined in the bill.

In this country 2¼ million Americans devote themselves to educating persons to discover cancer as early as possible, supporting research to enhance today's therapies for the cancer patient, bringing research advances to physicians so that they can maintain top capability in fighting this disease, and performing numerous tasks which help reduce the impact of the many cancers on patients and their families.

The American Cancer Society is proud of the fact that today's treatments can save over 40 percent of all cancer patients. More and more persons are seeing the practical benefits of the Conquest of Cancer Program mounted by this government in 1971. Attached to this testimony is a recent Parade Magazine article telling this statistical story in very human terms, indeed.

This progress quite tragically is not enough. The other 60 percent of cancer patients in many cases have their useful lives extended by months or years, but the prognosis for them is still so bad that cancer is still the nation's most feared disease, both because of its incidence and because of the peculiar agony which accompanies it.

While the American Cancer Society's volunteers contribute immensely to showing people why it is necessary to detect cancer early, and how to do it, and therefore serve to eliminate billions of dollars of medical costs by reducing the needed care, the disease is still extremely costly to patients and their families.

S. 1203 would require the Social Security Administration, whenever a person applies for disability benefits to pay those benefits as soon as entitlement is established rather than wait for five months, as under present law; but this practice would be followed only where a physician says the patient has an illness with no prognosis of improvement and the illness is expected to be fatal within 12 months.

Physicians are most reluctant to make such a prognosis for two reasons. First, practically every physician with cancer experience has had patients in some instances who live far longer than expected, or even fight their ways to unexpected cures. Second, even if the physician is nearly 100 percent sure that a patient won't survive, short of a miracle, or a year, he might be reluctant to share that belief with the patient. For if there is even the remotest chance of a cure every bit of opimism and psychological strength should be mustered. Hopeful patients who fight for their lives do better, most physicians are convinced, even if we do not have incontrovertible statistics to support that conviction.

As for the first of these points, the physicians' possible reluctance to make a prediction, even to himself, of a patient's death within 12 months, it is critically important, extremely important to remember that S. 1203 deals exclusively with the disabled. And as physicians, researchers, teachers, and long-term participants in community cancer programs, American Cancer Society volunteers and staff can say authoritatively that, by the time a patient is disabled with cancer the physician in most cases is quite convinced his patient will not outlive the year. This refers to medically demonstrable cancer.

This is not true in all types of cancer. There are more than 100 types of this disease. But in most of the types, the physician seeing the disabled patient can, with a great deal of statistical confidence, reach a conclusion on the approximate life expectancy. Of course, there is National Cancer Institute data on life expectancy. The physician will be informed by these data, but will not abandoned his own judgent about a given patient's condition, the course of the disease, the patient's outlook. The physician can speak with conviction, from experience, in many cases.

As to the second point, outlook comes to the fore. Medical and mental health experts have devoted a great deal of research in recent years to the process of human dying. The study has been called thanatology. One of the benefits of recent advances in cancer therapy is that life has been extended and the patient has more time to put his affairs in order if he expects an early death—insurance, legacies, will, sale of houses, early retirement, and other benefits. Many physicians, as good thanatological practice, are already telling patients to prepare for death. No competent physicians, however, would want to prepare each and every patient that way. Some patients don't have the psychological make-up which makes this preparation desirable. Some very commendable people simply cannot bear to hear such news. So the American Cancer Society is not eager to support legislation where the physician would be required to predict death. S. 1203 forces nothing upon the physician. The decision is still his under the bill.

For these two reasons the American Cancer Society is comfortable in supporting this bill and advocates that its benefits be enacted so that appropriate patients can be saved some anguish.

The view has been expressed by some that this bill isn't needed because most disabled persons have enough money to carry them through the firest five months of their disability. There is strong reason to spare the taxpayer's money for those cases where a deeper need of disability benefits exists, the argument goes.

The basic premise is correct. That is, after an automobile accident, an industrial injury, or even a heart attack, a patient might be out of the hospital fairly soon. To rush him disability benefits when he might go back to work creates a federal administrative burden, involves a good bit of applicant time, and the need might not necessarily be drastic or urgent, as the basic premise indicates. But this basic premise is not what this bill is all about. S. 1203 addresses not simply the disabled, but only those among the disabled who are expected to die shortly.

In addition to cancer, the heart attack, a myocardial infarction, severe arteriosclerosis and possibly other heart ailments afflict patients who, in some cases, face predictable, early deaths, according to the National Institute of Health. For such patients, too, the 5-month waiting period is a real burden, as it is for some lung patients.

In the case of cancer the disability and reliable prediction of death quite frequently come after weeks, months, maybe years of treatment of various sorts—surgery, radiation therapy, chemotherapy, immunotherapy—and the patient's family has been spending huge sums on care. A Missouri study about five years ago showed the average case of cancer moving through the Ellis Fischel Cancer Center at Columbia cost just above $20,000. Other data from the National Center for Health Statistics substantiate this. The cost must be about $25,000 now, at least. In contrast to the person disabled by an industrial or traffice injury, the cancer patient's fate wasn't resolved in an instant, but took shape over time, a very expensive time in most cases. This bill is urgently required to help families meet such financial catastrophes. There is no reason to confuse it with the other situation.

Some say that the bill doesn't provide enough money to help a family significantly; that it would be a drain on the public purse to no avail. With cancer costing $25,000 for an average hospital case, there appears some logic in this conjecture. But the medical care needed for cancer simply doesn't always unload catastrophic financial burdens on a family in one great blow. There is often health insurance. Hospitalization benefits frequently are part of collective bargaining agreements. Care providers in such cases often wait many months for payment. The family can start a process of liquidating assets if the insurance is insufficient. Mr. Dalton, another witness at this hearing, sold his house and moved to a smaller one. As a family struggles to adjust to pressing needs, the $320 average monthly payment this bill would provide could go a long way toward meeting house mortgage payments where a home was bought several years ago. This money could make the difference between a family's ability to keep the home after the patient's death with the help of his insurance benefits and, on the other hand, losing the home because of too small a cash flow just prior to the patient's death.

There has been the suggestion that the vagaries of the course of human disease would lead to a great deal of fraud in the administration of the proposed disability provision. How can a physician be so confident about predicting the course of disease? Part of the answer has already been covered here. It should be added that the actuary's office of the Social Security Administration looked into its sources of information on cancer disability and, in drawing up estimates of the cost of this bill decided to use 2½ months to three months as the additional payment base because, the staff said, experience shows that is a realistic average if five months entitlement were added, considering how fast cancer patients die. This certainly indicates that the 12-month limit would rarely be exceeded, and the opportunity for fraud would be small, indeed.

The cost of this bill has been estimated by the Social Security Administration, the American Cancer Society and others. The Society believes the cost is about $82 million annually. Since benefits are related to income, and since wage increases in recent years will entitle beneficiaries to higher benefits, an estimated 10% per year increase in the cost of the bill could take place in the next five years, though the first, written estimate of the Social Security Administration indicates a bit higher annual increase. If inflation comes under control, however, the cost of the bill would, likewise level off.

A word about the basis for the $82 million estimate: It relates to a Social Security estimate of $100 million annually for all involved disease. That $100 million is adjusted downward in this testimony, and the American Cancer Society believes Social Security would concur, by reason of other benefits conceivably available to the beneficiaries S. 1203 attempts to help.

The other benefits are emergency welfare payments available to persons with no income. This was discussed at a national meeting of American Cancer Society volunteers and staff in the midwest some months ago with persons attending from a number of states. Among the volunteers were several social workers. Only one had heard of this special, emergency provision, illustrating how rare it is used and how unlikely it has been of true help to patients. On further investigation the Society learned that the average amount available under such provision is smaller than S. 1203 would provide, about $234/month on the average compared to $320/month. The inquiries also showed that the provision varies widely from state to state, is exceedingly complex to administer, and difficult to apply for. The potential entitlement under emergency provisions, however, would cost states and the federal governent about $17,550,000 for an estimated 75,000 recipients. The new money, or new entitlement, resulting from enactment of S. 1203 would, therefore, be about $82 million.

The Social Security Administration gave two estimates, one related to a possible bill, not one introduced, to pay for the five months only after the patient had died within a year, thus eliminating any possibility of error or fraud in the estimate. The Social Security Administration's assessment of cost in this fashion removed $50 million from the cost in the first year. The American Cancer Society testimony uses the $100 million estimate because of our view of the unlikeliness of fraud and error. However, so long as benefits were forthcoming only where medically demonstrable cancer existed, the potential for error or fraud would be very small, indeed. Regulations could so specify.

Mr. Chairman, this is not a proposal designed to manifest the American Cancer Society's acuity in recognizing public issues nor the Society's strenuous efforts on the part of cancer patients everywhere. Rather, it is a proposal which initiated in the mind of a Society volunteer. It grew out of a cancer patient's experience. That patient had no need for S. 1203. But fellow patients all around him desperately needed it and need it now.

The initiator of this bill has, since he began advocating S. 1203, been approached by families in his own, upper-middle-income neighborhood who were so desperate for aid that some members of the families faced going without food so that taxi fare could be spared for the cancer patient to get his periodical chemotherapy or radiation treatments.

Medical advances have vastly cut costs by providing therapy on an outpatient basis, rather than the expensive, hospitalization way. Cost-conscious physicians are saving from $700 to $1,400 per week in hospital costs by treating these patients on an outpatient basis. Isn't it then tragic that some of these patients from relatively well-off neighborhoods must give up food in order to afford the transportation to the hospital for treatment?

And it is surely doubly and triply tragic for the patient in an urban poverty area, or a medically underserved rural area, and there are many of them from Maine to Louisiana, who cannot meet the transportation costs of his disease, or the food supplement cost of his disease.

There is a critical, human need for S. 1203.

VICTORY OVER A DEADLY FOE

(By Rita Rooney)

The Philadelphia chapter of the American Cancer Society recently gave its annual award for courage to Eva Minetti Ball.

"It was the first thing I had ever won in my life, and I felt like a fraud accepting it," says the 24-year-old cancer survivor.

Eva was struck with osteogenic sarcoma, a form of bone cancer, five years ago—shortly before she was to get married. At the time, she stood a 95 percent risk of losing her leg, with not much hope that the malignancy itself could be arrested.

Her fight and ultimate victory over the disease represent one of a growing number of happy endings. Dr. Gerald Rosen, Eva's chemotherapist at Memorial Sloan-Kettering Cancer Center in New York, say: "Less than 10 years ago, it would have been unreasonable to think you could make osteogenic sarcoma melt away with a drug treatment. Today we get 70 percent of the patients free of the disease after four years."

More significant than isolated progress in treating osteogenic sarcoma itself is the fact that, while cancer survival generally treads a slow uphill course, statistics show rapid gains have been made in combating malignancies affecting children and young adults.

According to the National Cancer Institute (NCI), half the young people treated for acute leukemia today can be cured with a drug therapy developed at St Jude's Hospital in Memphis, Tenn. That compares with only 5 percent who achieved a five-year survival rate in 1960's.

NCI puts the cure for osteogenic sarcoma at approximately 50 percent in major centers, compared with less than 20 percent in 1972. Just 10 years ago, Hodgkin's disease, a cancer of the lymph system that often attacks children, was considered invariably fatal. Today, 50 to 70 percent of Hodgkin's patients (depending on the advanced stage of the tumor) are surviving a 10-year follow-up.

Some think the young may fare better than the old in cancer care because money is more readily available for research affecting children.

Dr. Joseph Simone, associate director for clinical research at St. Jude's, says that young people are more likely to have the kinds of tumors that respond to treatment. He notes, too, that cancers which strike young people are usually systemic. Until advances in chemotherapy, there was no way to treat them, since it's impossible to surgically remove a malignancy that affects an entire system.

Dr. Rosen points out that children tend to be more optimistic than adults, and the patients who do best on chemotherapy are those who can concentrate more on life than death.

There is no doubt cancer treatment is painful, even abusive—and to survive, a person has to find an inner resource that holds stubbornly to life.

Frequently, as in Eva Ball's case, courage is clouded by self-pity. Shortly after the discovery of her cancer. Eva was told of an experimental operation in which the cancerous bone might be replaced with a steel bone. During the diagnostic procedures, she was in constant pain. Finally, she was told surgery could be performed, but there were no guarantees. Before going to the operating room, she signed a release authorizing amputation of her leg if necessary. It wasn't. The surgery was successful, but it was months before she could resume her life or even walk. Meanwhile, she continued chemotherapy treatments.

One of Eva's first decisions after the surgery was to cancel her wedding plans. Her fiance, Ron Ball, accepted no more than a postponement. "He tried to convince me it was me he loved, not my legs. Then he tried to make me laugh by telling me I had skinny legs anyway," she remembers.

But Eva wasn't laughing much in those days. Instead, she demanded constant sympathy from her family—but when she got it, she rejected it.

"We made it hard on each other. If I wasn't smiling, my mother wanted to know if I was in pain. Everyone hovered over me so. But, of course, I was responsible for that. I wanted people to suffer because life had cheated me."

During a scheduled break in her therapy, Eva accepted her older brother's invitation to visit him and his wife in California.

"It was during that time I was cured—mentally anyway," she admits. "My brother gave me no sympathy. No one in the house mentioned the word 'cancer.' My sister-in-law had to have a tooth pulled, and I found myself feeling sorry for her."

Eva returned home to Philadelphia, and she and Ron moved up their wedding plans. Today, three years after the completion of her chemotherapy, the Balls lead a normal and happy married life.

Mike Finamore of Glen Ridge, N.J., is a young cancer patient who wasn't afraid to accept responsibility for his own fate. A victim of leukemia when he was 13, Mike received chemothapy for nine years. Then, five years ago, when he was 22, he made the decision to discontinue the drugs that were keeping him alive.

His physician, Dr. Monroe Dowling, then of Sloan-Kettering and now in private practice in Lincoln, Neb., explains the unusual circumstances surrounding Mike's decision. "Mike Finamore represents the history of the disease," he said "As our knowledge of therapy progressed, we applied that knowledge to him and to others of his generation.

"Quite frankly, we didn't know when to stop treatment. There were no precedents established at that time. I'm sure that if we had felt strongly about Mike's continuing therapy, he would have cooperated. But he understood the experimental nature of treatment, and he had learned a great deal about it during the years. He wanted to get on with his life, and so we agreed."

Married four years, Mike now says: "I was either being cured or kept alive by the medicine. I didn't know what my future held, but I was determined to find out. When I was off therapy for six months, I asked Ann to marry me."

When Hodgkin's disease struck Sandy Buchanan, of Salem, Mass., she was 21 and a senior in nursing school.

"I couldn't believe it," she says now. "I ran to medical texts and tried desperately to find something to cling to, some hope. But the books all gave me the same verdict—fatal."

Surgeons at Beth Israel Hospital in Boston, were not so willing to accept that verdict. In one of the first such operations performed in the state, they removed Sandy's spleen. Surgery was followed by two months of radiation treatment. That was nine years ago. Sandy has since married.

"One doctor told me I would never become pregnant," says Sandy. "Another said I might. I chose to believe I would.

"But when I learned I was going to have our first baby, I began to have fears I hadn't anticipated. I worried about the effects of the radiation. I worried about every conceivable problem. Sometimes I found it difficult to maintain a sense of balance. All I could think of was that I wanted children—and yet if my baby wasn't healthy, I would never be able to live with myself."

With three healthy children, a husband and her studies toward a graduate degree in nursing, Sandy Buchanan no longer has time to worry about the cancer that once threatened her happiness and her life.

Sandy's fears about her pregnancy weren't completely groundless, however. Dr. Anthony J. Piro, who heads the department of therapeutic radiology at Tufts New England Medical Center, reports that chemotherapy or radiation therapy can cause sterility in both men and women. Under certain conditions, it might also be harmful to an unborn child. The danger is considered small, though, and in the case of young men, the sterility may be temporary.

Sterility may not be considereed one of the major complications of therapy. But considerable research now centers on refining treatment so that many of the side effects of therapy, including retarded growth, can be avoided.

Dr. Sidney L. Arje, American Cancer Society vice president, says: "It hasn't been many years since a diagnosis of cancer was equated with a death sentence. There was no need for rehabilitation because the patient didn't survive. That's not true anymore. The more we talk of cures, the more we must deal with the importance of the quality of life, and the impact of the disease on the patient and his family."

Dr. Arje cites recent programs to educate teachers as part of rehabilitation efforts. He says emphasis is being placed on helping school administrators understand the emotional and physical complications of therapy so they can assist the young cancer patient in readjusting to school and environment. This kind of beyond-cure effort indicates optimism in the medical community—an optimism spreading across the country to homes where young people like Eva Ball, Mike Finamore and Sandy Buchanan live out their young lives and plan for the future.

ADDITIONAL TESTIMONY BY HOWARD DALTON, EVERETT, WASH.

Attached to my main statement are reproductions of several of the 2,380 letters I have personally received in response to news articles mentioning the need for S. 1203. The originals of these reproduced letters were turned over to the House Ways and Means Committee, which reproduced them in, Hearings Before the Subcommittee on Social Security of the Committee on Ways and Means, Serial 96-14. They are attached along with typescripts of several more recently received letters.

I would like to say at this point that I have made no effort to inundate this Committee with the flood of mail I have received and have brought only a few with me.

Because of the news articles, I have been asked by the American Cancer Society and others to give counsel to other afflicted persons. Just last Saturday evening, for instance, I talked with Mr. Rein Pello, Snohomish, Washington. He was diagnosed with oat cell carcinoma of the lung about two weeks ago. He has a 44 acre plot in Snohomish which he has kept as an investment for 15 years. He will be forced to liquidate this investment in order to gain immediate funds to support his medical care. He is in such urgent need of the money that he faces a loss because of a quick sale in a market difficult for a buyer wanting a mortgage loan.

A prime example of the family dislocation caused by cash shortage among cancer patients is Mr. Bern Berry, Everett, Wash., who reached me through an American Cancer Society staff person. I drove him to and from the hospital several times before he died 2½ months ago. He had lung cancer. His wife was employed by the Snohomish Public Utility Department. Before becoming ill he had been employed by Standard Oil Co. He told me, "We need that Social Security disability benefit." First, he sold his automobile. Then he put his house on the market. He received one Social Security disability payment before he died after living through the 5-month waiting period.

Mrs. Idell M. Johnson, Box 2965, Everett, Washington, 98203, wrote me, "I am in complete agreement in your battle with Social Security. I too am on disability, due to heart and rheumatoid arthritis. . . ."

Mrs. Marion N. MacMunn wrote to me, "I see in the Times February 16 of this trouble with the Social Security and I can very well see this terrible business after a person has worked to support our Big Government and gone to war and not complained and then get left out as was the case with my husband . . .

"My husband needed help, too, 21 years ago! I feel bad about the sick, helpless people in our world. . . ."

Mr. Chairman, if there is any interest on the Committee's part to see how your constituents get the impression that the money-in/late-money-out system is widely viewed as an unfair government mechanism I should, of course, be happy to show you all of the mail I have received.

I am just one person who happened to get his name in the papers. I am convinced that all across this country in each of your States there are tens of thousands who view Social Security as unfair in many ways. This impression needs correction via substantial change. I am suggesting one humane, urgently needed, way to eliminate some of the unfairness.

SAMPLING OF LETTERS SUBMITTED TO THE U.S. HOUSE OF REPRESENTATIVES

STANWOOD, WASH., *February 24, 1979.*

Mr. HOWARD DALTON,
Everett, Wash.

DEAR SIR: We would like to add our support to your fight for a better system than we now have for social security disability regulations. Our sister-in-law was in the same situation as you now find yourself. She had worked all her life and then found she had terminal cancer. She applied for her disability and was told she would have to wait 5 months before the payments would start. Her first check came: The Day After She Was Buried.

We wish you good luck on your testimony in Washington.

Respectfully,

ARTHUR E. FLATRAY.

FEDERAL WAY, WASH., *February 18, 1979.*

DEAR MR. DALTON: I have been following with interest your battle with cancer and the Social Security system. How I'd love to hear you are winning both!

My husband became ill—completely unable to work—last spring. We contacted the local Social Security Office and filed for disability effective March 15 (my 56th birthday) hoping he might realize some benefit from these funds he has donated to for so many years. Herm passed away from cancer on August 2, just 13 days too soon to qualify for any disability. How naive the majority of us are, feeling secure with this so called social security. I am not eligible for any relief, other than the modest death payment, for four more years. Herm contributed to the fund since he was 15 years old. A homemaker for 35 years—I have had to find part time work to carry on. Those five months of disability would not have solved my problems, but they would have helped. Keep up your good work.

If I can help your battle in any way—let me know. I need a cause! If you should happen to meet Herm, some time in the future, please tell him I love him and miss him with all my heart.

Sincerely,

Mrs. HERMAN C. DEANE.

FEDERAL WAY, WASH., *February 16, 1979.*

DEAR SIR: We are writing to send you our support concerning the five-month waiting period on disability payments and no retroactivity.

We lost a dear friend last May, 1978 who had cancer also. He received the same treatment that you have. After 25 years of paying social security he was told he had to wait until the five months were up. He died from cancer just a few days short of his five months. His family received nothing for his disability and they needed the money badly as his wife worked only part time. Because he could not receive any help from social security he went back to work and spent his last days—not with his family—but in exhaustion, extreme fatigue, falling asleep at the wheel on the way home.

I resent that he had money taken out each month for Social Security, yet when he needed it, he was told by a regulatory board—NO, not now—wait 5 months. Keep up the fight—It won't help him but maybe someone out there in the same circumstances can receive that which they have already paid in when needed.

Mr. and Mrs. VIRGIL K. HICKS.

SEATTLE, WASH., *February 17, 1979.*

DEAR SIR: Your appeal for no delay in disability social security hits home. In 1964 my husband's youngest sister, Melba Smitherman, lost both legs six inches below her hips due to surgery. An artificial aorta failed to take her lower extremities. She was 39 years old.

Due to various problems, such as infection, Melba was unable to apply for disability social security for 3 or 4 months—and when she did, had to wait for six months more before "qualifying." There was no way she could have been physically capable of working within a year of her disability, yet she had to wait.

Melba lived with her widowed mother, who herself (the mother) is on a widow's pension. My mother-in-law supported Melba until Melba finally received her social security benefits. Melba worked all of her life, so she had earned her benefits.

You would be doing all people who find themselves physically disabled a great service if the waiting period could be less, or done away with completely. Even if one has some financial security, not all are so fortunate. Social security is not charity—we have paid into it. To have arbitrary decisions made with our own money is a little hard to take.

Good luck to you.

Sincerely,

Mrs. D. E. (ABELINE M.) LEMON.

SEATTLE, WASH., *February 15, 1979.*

DEAR MR. DALTON: I am glad to know you are making a strong effort to change the waiting period for disability payments by the Social Security system. It is shocking to learn there is a waiting period of five months when rationally there should be no waiting period once disability is declared.

Good luck to your efforts!

Sincerely,

IMOGENE ROUSSEAU.

KIRKLAND, WASH., *February 21, 1979.*

DEAR MR. DALTON: I am extremely sorry of your plight, prognosis, and all aspects of your situation. Please continue to hope because more and more of my friends are surviving against anticipated odds that were horrendous. I hope it is likewise with you.

I admire your effort to alter laws that thwart the humanity they are supposed to espouse.

In my own case, my husband's August death was eased financially throughout the year and through operation after operation for cumulative circulatory problems—by VA and SS pensions, which happened to fit into the age/time scheme of these agencies. I am forever grateful.

Prior to this, we paid $5,000+, when it meant more, and could have been brutalized by the struggle to exist if we had not "fitted" thusly.

In no way, in no time, do I feel that terminal patients should be made to fight or to justify their condition. Diagnosis should equal immediate help. I deplore the rejection of your claim—humanely as well as practically; for it seems to me that the word "terminal" denotes automatically an unemployable status and that this should justify immediate reception of funds. No other argument makes sense.

If I can help in any way, please let me know. I've had my share of help and feel that an arbitrary time lapse for benefits obviously due, is a cruel power play.

The best to you and your family and my admiration for your fight in all senses of the word.

Yours truly,

(Mrs.) RENEE McIVER.

SEATTLE, WASH., *February 24, 1979.*

MR. HOWARD DALTON: I can understand your case as my sister had the same problem with the Social Security, but thank God she was able to get hers before she passed. The Drs. in Baltimore fought for her but I am praying things will change and this state will fight to help sick people and change the law for all persons with terminal illness.

Don't give up. All sickness is not death. Keep fighting and praying as I say a prayer for you to overcome your illness and things change for the better with the Social Security.

Sincerely,

LUCILLE SMITH.

SEATTLE, WASH., *February 15, 1979.*

DEAR MR. DALTON: I read of your plight with the Social Security rules. Your Social Security came out of *your* pay check, its *unfair* when you have been given 8 to 10 months to live and they still hold out. I know—rules are rules—but in *your* case something should be done. Mr. Dalton, I agree with you. I, too, believe as you. "I don't believe any rule, law or regulation can't be changed"!

I too, am a cancer victim, but I did not get an ultimatum like you did. I have been told my chances are very good, with radiology treatments and chemotherapy.

I too, asked for temporary disability from Social Security, as I had not been on my new job long enough to collect and I was told—as you—there was a five month waiting period. I am lucky. I have returned to work as of last Monday, but because I couldn't get any help my bills have piled up. As I told you earlier, that Social Security was taken out of *my* check, but no deal.

I am able to work, but in *your* case something should be done, *NOW.*

I just reread the article in the paper. This gets to me. "Changing the law for persons with terminal illness would be difficult to administer because of the uncertainty of medical prognosis." It seems he has never had the trauma that goes with the words—"you have cancer" and the scars prove it.

Mr. Dalton—I hope my letter—with others—will help you and that you get an "avalanche of letters."

I will close now, with a personal touch. Howard, may God be with you and my best wishes to you and your wife Joy.

Very sincerely,

NORMA IVAN.

FEBRUARY 20, 1979.

DEAR HOWARD: Because my husband was caught up into this same situation as you now are I am writing to add *any* support I might give.

At age 50—with 3 children in school 2 out barely self-supporting, he learned he had leukemia and 3 to 6 months to live. Our eldest son immediately came home and worked for his father's partner. Our 16 year old started when school year ended. Had we not been able to do this and keep money coming in—it would have been pretty bad. But nothing compared to people who have no means of support when this tragedy hits. I thought many times how terrible this must be for some one with no income. To face death *and* whatever else comes with no financial help. Please add our names as your supporters. Our husband and father lived 5½ months and at that time the waiting period was 6 months—how ironic.

God bless you for your concern for others.

Sincerely,

DOROTHY SEVOLD.
STEVEN STECHER.
SHELLY STECHER.
SCOTT STECHER.
SHARON STECHER.

Mr. DALTON. Once again, gentlemen, I urge you to vote for immediate passage, and thank you for giving me this opportunity to testify here today.

The CHAIRMAN. Thank you very much.

Any questions?

Senator DOLE. Let me say, I appreciate very much your statement, Mr. Dalton, and also yours, Senator Jackson.

Do I understand correctly that this would apply to only those who are terminally ill, where you would waive the 5-month waiting period?

Mr. DALTON. I think, Senator, this would apply mainly to cancer patients, although it could very well apply to others who have a prognosis of a life-threatening illness which is going to result in death within a 12-month period. In my case, last November, doctors gave me 6 to 8 months to live. I am ahead of that prognosis, and my cancer is in remission. However, many that I have met were not so fortunate.

Did that answer your question?

Senator DOLE. The only reason I raised the question, maybe in your case it is not even fair to raise the question, but there is a 5-month waiting period, and unless we somehow limit it, and adequately define it, there could be efforts to eliminate the 5-month waiting period for all beneficiaries.

Mr. DALTON. I think that any doctor who would certify an illness as being terminal—We refer to the 5-month waiting period, Senator, but in fact the first social security checks do not arrive until the 7th month.

Senator DOLE. Thank you.

The CHAIRMAN. Any further questions?

Senator DOLE. No. Thank you.

The CHAIRMAN. Thank you very much, sir.

We will revert to our original order, and we will call on the Honorable Stanford G. Ross, Commissioner of Social Security.

I would hope, Mr. Ross, that you could abbreviate your statement, which is a very useful and extensive statement, and we will print it in its entirety in the record.

Senator Dole?

Senator DOLE. Mr. Chairman, before we start, I am not going to read my statement, but I would like to include it in the record. I would like to point out that it is a discussion of S. 591, which Mr. Ross discusses also, and I would like to point out that it is sponsored by myself, and Senators Moynihan, Bentsen, Ribicoff, Cranston, Danforth, Schweiker, Javits, and Bayh.

The purpose of that legislation is to make improvements in the supplemental security income program for handicapped persons. We tried to meet the needs of those who have severe medical disabilities, but who can still hold full-time or part-time employment. It contains five provisions. I would just highlight those: Presumptive disability; income from sheltered workshops; extending cash benefits, extending medicaid; and attendant care.

I am sure that these will be discussed more at length, and I will be happy to discuss them more at length later. I would ask that my entire statement be made a part of the record.

The CHAIRMAN. Without objection, agreed.

[The prepared statement of Senator Dole follows:]

OPENING STATEMENT OF SENATOR DOLE

Mr. Chairman, I am very pleased that the committee is taking time to hold hearings on legislation to remove work disincentives from the two disability programs under the Social Security Act. This is an extremely important issue and one which is very close to my heart. I appreciate the opportunity to hear from witnesses on these bills, including the measure which I introduced to provide severely disabled individuals the means to work if they are able.

I am aware of the concerns of administration officials and others over the growth of disability programs and their fear that the recent leveling-off of program growth could be temporary if proper measures are not taken to contain such growth. However, I am very concerned about the effects of the provisions in H.R. 3236 which will cap family benefits and reduce the number of years of low earnings which can be excluded by younger workers. While I do not want to provide compensation which will keep individuals from going back to work if they are able to do so, I certainly do not want to resign those who will never again have the ability to work to a life of poverty by limiting benefits arbitrarily. I hope the witnesses here today will enlighten us on this issue so that we might find a more suitable way to rehabilitate disabled workers.

I would like to take just a few minutes to discuss S. 591, the bill which I introduced earlier this year along with Senators Moynihan, Bentsen, Ribicoff, Cranston, Schweiker, Javits, and Bayh, to make various improvements in the supplemental security income program for handicapped persons.

After studying various SSI provisions, it is obvious that the program is built on the misconception that disabled individuals don't and can't work. While at one time there might have been reason to believe this, we know now that it is simply not true. Society is 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, theere 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 person can have severe disabilities, monthly medical bills, and attendant care expenses, yet still have work potential.

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 their attendant care and medical expenses. It is feasible, though, that this 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.

My bill is designed to meet the needs of those who have severe medical disabilities but who can still hold full-time or part-time employment. The legislation contains five provisions which will allow handicapped persons to move into the job market without a total loss of SSI benefits, medicaid and social services.

1. *Presumptive disability.*—If a person leaves SSI to take a job and finds he is unable to continue working, he may return to the SSI rolls without first going through the lengthy process of re-establishing disability.

2. *Income from sheltered workshops.*—Income from sheltered workshops shall be considered as earned rather than unearned. This means that the first $65 is exempt under SSI rather than only the first $20 as is now the case.

3. *Extending cash benefits.*—Handicapped persons will continue to receive cash payments under SSI even after they reach the substantial gainful activity level ($280 a month). These special payments will be equal to those the blind now receive.

4. *Extending medicaid.*—After the break-even point is reached where benefits are phased out ($443), the Secretary of HEW may continue medicaid benefits if it can be shown that without the medical assistance the person would be unable to continue working.

5. *Attendant care.*—In determining substantial gainful activity, the cost of attendant care is disregarded.

I believe this legislation is preferable to H.R. 3464, which was passed by the House of Representatives, because it does not change the definition of disability in the law and it is clearly targeted just to those individuals with severe handicaps. It is also much less costly than the House bill, particularly in future years.

The current program of SSI benefits places an unrealistic burden on those handicapped who wish to become more financially independent. S. 591 provides a gradual phasing out of Government assistance, yet respects the problems facing the disabled as they strive to lessen their dependence on that assistance. With this legislation, we are removing employment disincentives and giving a boost to disabled individuals striving to enter the job market. However, we are not providing the incentive or the opportunity for minimally disabled individuals to take advantage of programs which are designed to aid the permanently and totally disabled.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Ross, please abbreviate that statement. Every Senator can read it in its entirety, and also the attachments, because it contains a lot of information that we ought to have. We ought to study every bit of it.

STATEMENT OF HON. STANFORD G. ROSS, COMMISSIONER OF SOCIAL SECURITY

Mr. ROSS. Anticipating your request, I have reduced the substantial elements of my testimony to just a few charts, which I would go through, and then take any questions that you might have.

First of all, I do want to thank you for the opportunity to testify on these bills. I think that they are very important legislation. The two House bills that you have before you represent a very constructive approach in social security disability reform. There are some changes that we are going to propose, but in basic respects it reflects a long period of work by the House subcommittees, and indeed an HEW task force that was stimulated by your remarks to Secretary Califano after the 1977 amendments that the disability program required study.

The reason we are here today in part is that this is a program that has grown very rapidly. Indeed, it has grown to the point where it is a $15.8 billion program today. There are lots of figures in the testimony. It is a program that we project within the next 10 years will grow to be a $30 billion program. So it is terribly important to look back at it, and try to make it right.

We now have about 20 years of experience with it, and it is timely in our mind, given this growth in the program, to look at it.

Senator CHAFEE. The $30 billion is in constant dollars?

Mr. ROSS. What is that?

Senator CHAFEE. The growth that in 10 years would be to $30 million, is that in constant dollars?

Mr. ROSS. No, it is not constant dollars. Those are the estimates based on actual dollar expenditures from the programs, the projected benefit expenditures.

Senator CHAFEE. Thank you.

Mr. ROSS. There are three major problem areas which the various studies have shown.

Replacement rates in this program, because of the underlying formulas, actually result in about 6 percent of the cases with people receiving more money when they go on the disability rolls than their net earnings were before they became disabled. In 16 percent of the cases, the replacement rate is above 80 percent. In the private sector, a normal replacement rate would be in the 60 to 70 percent range. We do have some provisions that are designed to try to better correlate replacement rates with predisability earnings.

Second, the program as presently constituted contains positive economic disincentives to people who want to become rehabilitated and go back to work. A major aspect of the program we have is some very specific things that will help people who are severely impaired, but do want to work.

Third, we are dealing here with a very confusing and cumbersome administrative process that produces results which just are not satisfactory.

While this is a fairly busy chart, I can briefly give you a picture of what the problem is with the process from this chart. There are roughly 1.2 million applications for disability that come into our district offices. We take the claim, and we then send it to a State disability determination service for medical determination. We wind up with allowances of 357,000, and denials of 833,000 at this first stage of the process.

Then, there is a reconsideration stage where 20 percent of the cases that go to that are reversed, and you get another 45,000, roughly, of allowances. These are 1978 figures.

Then you go to an ALJ hearing, which is a full due process hearing, and 51 percent of the cases that reach that stage are reversed.

Next there is an appeals council, which reverses 4 percent more of the cases. Then, we are currently getting roughly 8,000 to 10,000 cases a year that go to the Federal courts. In 1978, they handled 4,900 of them, and in effect reversed 33 percent.

The thrust of our problem is that we have to begin to make better decisions earlier in the process so that people get more timely results, and you do not have the kind of prolonged process with very high reversal rates, which really rewards perseverance too much. We have to be getting the right results earlier, and that is the thrust of the administrative changes we want to have some authority to make.

Senator DOLE. Are there some average on how long they have to wait for all that to happen?

Mr. ROSS. There are some, and we could give you those.

Senator DOLE. Could you provide those for the record?

Mr. ROSS. We would be glad to do that.

[The following was subsequently supplied for the record:]

Average processing times[1]

	Days
Initial decisions	76
Reconsiderations	51
ALJ hearings	151
Appeals council	77

[1] For December 1978, the latest month for which all data are available.

Senator DOLE. I would assume that in some cases it would be years by the time you saw any disability benefits.

Mr. ROSS. Depending particularly on how long it takes before an ALJ decision is made.

We have brought processing times down. Our ALJ productivity is very good, and it is better now than it has been in a good number of years. But it is still a very prolonged period.

I would first like to go back to the work incentive provisions, which I think are a terribly important part of the bill, and really something that is vital that we do.

First of all, we would like to provide, and this is in accord with your bill, Senator Dole, for a deduction of impairment related work expenses in determining substantial gainful activity.

Second, we would like to give people a safety net for trial work. Under present law if they work for 9 months, but then fail to continue to work, they have to go back to an elaborate disability determination. In order to encourage people who try work, we would provide that they are automatically reinstated if, for any reason, a full year after the trial work period ends, they should lose their job. They would be automatically reinstated, and this is a kind of safety net provision.

Third, because medicare and medicaid expenses are so high, we would like to have 3 additional years beyond the year of trial work in which people who go back to work can keep this medical help. Again, something to help people who really want to help themselves.

Senator DOLE. Are there any special provisions after the 3-year period?

Mr. ROSS. No, there are not and that is where the provisions in your bill would go further than ours. But to the extent of the first 3 years, I think we are sort of in accord.

We would also like to eliminate a second medicare waiting period. There is a 24-month waiting period. If somebody tries trial work, then fails, they could be automatically reinstated for medicare without a new waiting period.

Finally, we would like to get a trial work period for widows and widowers who under present law are not permitted the trial work option.

The specific administrative improvements we would like to make involve performance standards put in regulations where the Federal Government sets standards for accuracy, and processing time, and cost effectiveness, but leaves it to the States to make the determinations, without a lot of interference in the day-by-day activities.

Under present law, we have a separate contract with each of 52 jurisdictions, and we tried to institute a new form of contract. We managed to get 21 signed up. But the contractual relationship in a program which is 100 percent federally financed is just not administratively working out well.

Does that yellow light mean that you want me to finish quickly, or do I finish my charts.

Senator DOLE. You have 30 seconds.

Mr. ROSS. There is a whole host of other things. There are two that I would mention.

One is, periodically review the people on the rolls to make sure that the rolls are kept current, and that people who are not disabled will come off of the rolls.

We want to do more preadjudicative review to make sure that people who get on the rolls should truly be there. We want to explore face-to-face interviews so that a claimant will have a chance to meet with somebody before the formal ALJ proceeding. We want to introduce an SSA representative to present the case at the hearing level.

We have a whole host of things which are designed to get better decisions earlier. Since my time is about completed, I will stop here.

Senator DOLE. We have a vote in about 1 minute. But we will all duck out and be right back.

Mr. ROSS. The most controversial part of the bill is the cap on family benefits, to try to relate the benefits more to predisability earnings.

Present law already has a cap provision in it. It ranges from 150 percent to 188 percent of the workers' benefit. The House bill would provide a new cap of 80 percent of a worker's average indexed monthly earnings.

Senator DOLE. Commissioner Ross, maybe we could just stop at this time and we will be back in about 3 minutes.

Mr. ROSS. Fine.

[Recess.]

Senator DOLE. I think we can proceed. The Chairman will be here in just a minute.

Mr. ROSS. To review where we were. There are three sets of provisions in the bill to remedy these problems that we have pointed out. One is the benefit cap and dropout year provisions. The second is the work incentive provisions, which I covered. The third is the administrative improvements provision, which I briefly covered.

Present law, as I said, includes a cap on family benefits. The House subcommittee went to an 80 percent of average indexed monthly earnings, or 150 percent of the worker's benefit, whichever is lower. There are a number of other proposals, which were before the House subcommittee, and they started with 75/150. Congressman Gephardt had a provision for 80/130, which lost 16 to 14 in the full committee. The administration had initially proposed the 80 percent, but not the 150 percent cap. The Advisory Council had proposed 90 percent of high 5 consecutive years of indexed earnings.

Easier than looking at these numbers, which show you what the benefit would be based on earnings, is the next chart, which shows you who the cap would affect.

Somebody with $135 of average indexed monthly earnings is somebody, obviously, with a very marginal relationship to the workforce, like an intermittent worker, or somebody who has just worked part time. The $479 a month are people who have worked at roughly the Federal minimum wage. The $887 is an average earning worker, and $1,700 is a high earnings worker.

All of the cap provisions would affect the intermittent worker the most drastically, and all would have about the same effects on the intermittent worker. The House bill would affect the people at the minimum Federal wage to the extent of 8.7 percent. It would hit the average worker at 17.7 percent, and high earners at 14.2 percent.

The savings under the benefit cap are portrayed on this chart here. Under the House bill, the cap would save $38 million in the first year, about $29 million from people whose average indexed monthly earnings are above $530 a month, $9 million where it is below $530. Over 5 years, the cap would save $1.364 billion.

These bills before you were not designed as cost or saving bills. They were designed programmatically to try to improve the operations of the disability program. The bills followed a separate course in the House, coming out of the Social Security Subcommittee, and the Public Assistance Subcommittee.

Under the House passed bills on a combined basis, they would have a net cost to Federal expenditures of $87 million in fiscal year 1980, and in fiscal year 1984, they would save almost $700 million.

Under the kind of combined program that we have advocated in my testimony, with the changes that we have made, they would save $21 million in fiscal 1980, and the fiscal year savings would be $630 million.

But the bill is made up of a host of provisions, some of which add costs, some of which subtract costs, and it is really the total program and balanced package that is to be focused on, and which we hope this committee will produce.

I would be glad, since I know your time is limited, to take any questions you may have, and also to submit any additional materials you may wish for the record on any of these points.

Senator DOLE. Chairman Long is right nearby, and the statement has been made a part of the record.

You mentioned that the SSI and DI programs are tightly interwoven. Is there any reason the administrative safeguards, such as review of disability cases at least once every 3 years, should not apply to SSI as well as the DI program?

Mr. ROSS. No. We would urge that those provisions be made parallel in the two programs.

Senator DOLE. What has been the reaction of States to your proposal that disability determination be controlled and monitored by the Federal Government?

Mr. ROSS. There has been a level of opposition, obviously, to going from the contractual mode to a regulatory mode. On the other hand, in terms of the general underlying thrust of what we are trying to do, my sense is that we are very much in agreement, which is that it will be far better for the Federal Government to try to set standards and not try to direct the day-to-day administration in the State disability determination unit.

I just recently was in Kansas City, and had a regional meeting with the directors from Missouri, Kansas, Nebraska, and I believe Iowa, and I thought that in terms of where we ought to be going with the program, there was a high degree of agreement. While they were probably opposed to changing from contracts to regulations, we feel very strongly, based on our experience with the existing contracts, that it is simply not possible to take a 100-percent federally financed program, be held accountable for it the way I am in Social Security, and administer it through 52 separate negotiations. We have to get some uniformity into it.

We have stopped short, let me say, of wanting to diminish the State's role in any way. We want the States to play a major role. We want to give them the resources to play that role, and the support. This is not a way of achieving backdoor federalization. We do not want to take over the determination part of this program. We simply want to make sure that every applicant everywhere in the United States gets the same fair, humane, and efficient treatment.

Senator DOLE. I have a couple of other questions, but I will wait. Senator Danforth, do you have any questions?

Senator DANFORTH. Commissioner Ross, you have a chart that is entitled "Disability Adjudication Process." I wonder if one of the staff could put that back on the easel, and I could just ask you a question or two about it.

Mr. ROSS. I will do it myself. I learned long ago that it is better to do it yourself.

Senator DANFORTH. Let me ask you, the adjudication of disability, that is a matter of fact, isn't it?

Mr. ROSS. Yes. It is basically a fact issue, although often legal issues arise because in order to carry out the determination, there are a whole host of regulations that define the medical listings that must be met, vocational factors, and such. So you can have legal issues arising.

Senator DANFORTH. Can you, just in a hypothetical situation, take us quickly through the steps that somebody would follow who used every step of the proceeding? Of course, some people don't, but if a person were to use every step of the proceeding, what would happen?

Mr. ROSS. They would come into one of the social security district offices, and file a claim. The Federal people in our offices would determine whether they have insured status, and then would forward the claim for the disability determination to a State unit. The State unit would, then, gather the evidence, make a determination as to whether or not the person was disabled.

If the claim is allowed, and some 30 percent of the claims are allowed at that stage, then the records come back to the Social Security Administration, and the person is put into a payment status.

If the person is denied, which happens in 70 percent of the cases, they, then, can seek reconsideration. Very often during the reconsideration, they will produce additional medical evidence, and other evidence, and on the reconsideration, which again is done without meeting the claimant, but simply off of a record, 20 percent of the 228,000 claimants are denied at reconsideration.

Senator DANFORTH. I can see the figures. All I wanted to know was the one hypothetical situation.

Mr. ROSS. They, then, can file for a hearing before an administrative law judge. This is a full due process hearing, where evidence is taken. People can present their claim. Indeed, in about 40 percent of these cases, people bring an attorney to represent them. The Government is unrepresented under present practice.

The ALJ is the first person in the process under the present practice who sees the claimant and can talk to the person.

Senator DANFORTH. But for the one individual, what happens?

Mr. ROSS. If the person is allowed, they go into payment status. If they are not allowed, they, then, can appeal to the Federal courts.

Senator DANFORTH. What about the appeals council?

Mr. ROSS. The appeals council is there, but they mainly operate on their own motion to try to assure some uniformity in the cases. After the Federal courts, they can immediately go back and file again and start all over with a new claim at any point. So you have an almost continual process in some cases.

Senator DANFORTH. You have suggested some administrative improvements. Would that be steps being added?

Mr. ROSS. No.

Senator DANFORTH. Preadjudicative review, where would that be?

Mr. ROSS. Those steps are designed to improve the process at each stage. The preadjudicative review would come first at the initial decision level to get more Federal review of the State determinations to make sure that they are being done at a high quality.

It is designed not to add steps, but to make the steps work better so that you get better decisions earlier, and have far fewer people needing to reach an ALJ administrative proceeding.

Senator DANFORTH. What about periodic review of disability beneficiaries?

Mr. ROSS. We presently do some of that. We have a diary method of keeping track. What we are talking about is moving toward a much more extensive kind of system, where we do a much more careful job of monitoring the rolls, in effect.

Senator DANFORTH. You have indicated that there could be a substantial time lag between the time the person first walks in the door, and then gets either on the rolls or finally determined. Is that right?

Mr. ROSS. Yes, sir.

Senator DANFORTH. The whole thing seems to me to be an inordinately complex series of procedures for making a factual determination, with virtually no end to it. Is that a fair statement?

Mr. ROSS. I think that is right.

Senator DANFORTH. Can anything be done about that?

Mr. ROSS. We have given you our best judgment of a lot of things we can do. I think that it becomes very important when you see reversal rates of 51 percent of the cases that get before a trained hearing officer to recognize that there are too many cases reaching that stage, and that somehow you have to do something to get more decisions made earlier for people.

That to me is an indication that the health of this administrative proceeding is not good. It is not just that reasonable people can differ, but I have a strong suspicion that you are simply encouraging people to keep going as opposed to thinking about rehabilitation, work incentives, or other things. You are kind of putting them in a situation where they have to keep thinking about how they fight their way to proving they are disabled. It is kind of unproductive, this kind of an elaborate process.

Senator DANFORTH. It would seem to me that it is clearly the status.

Mr. ROSS. Yes.

Senator DANFORTH. I don't know how to avoid it.

Mr. ROSS. It produces terrible problems. We have just gotten over one, but we had a backlog of hearings pending which threatened to break down the system. I just testified in the House in an oversight hearing. We had to add ALJ's, we had to get them to increase their productivity. There was just such a backlog of cases in the system that it threatened to break down totally.

Senator DANFORTH. Thank you.

The CHAIRMAN. Senator Heinz.

Senator HEINZ. Earlier this year, former HEW Secretary Califano testified before the House Social Security Subcommittee that benefits in approximately 6 percent of all cases actually exceed the disabled person's previous net earnings. Over what period of time must it take for that to happen, and is this something most likely to occur in the case of younger people who were at the lower end of their earning years when they were disabled?

Finally, how many older people, let us say over 60, are included in that 6-percent figure?

Mr. ROSS. I think that we will have to submit you that breakdown.

Basically, the 6 percent, which is a figure I repeated here today is based on comparing the benefits one gets to the net earnings a person has shortly before he becomes disabled.

Senator HEINZ. I understand that.

Would you give us that information for the record?

Mr. ROSS. Yes, sir.

[The following was subsequently supplied for the record:]

As noted in the answer to Question 7, there are many ways of measuring a worker's predisability earnings. The figures given by Secretary Califano were based on a comparison of a worker's initial family benefit award and his or her wage-indexed earnings in the highest 5 of the 10 years imediately prior to the onset of disability, net of estimated income and payroll taxes and work-related expenses. Using this measure, younger workers are disproportionately likely to have benefit awards in excess of recent net earnings, both because they have the advantage of relatively more drop-out years in the computation of their benefit and because they are relatively more likely to have dependents. By the same token, older workers are less likely than average to have benefits exceeding recent net earnings. We do not have similar data for workers age 60 and over.

Senator HEINZ. The Secretary went on to say that approximately 16 percent of the beneficiaries receive benefits that are more than 80 percent of their average predisability net earnings. Since average earnings are generally lower than earnings immediately before the onset of the disability, isn't that a somewhat confusing statement?

Mr. Ross. No, I don't think it is. I think the concept of average indexed monthly earnings is the basis of all of the benefit computations throughout the program. When we figure replacement rates, both in the retirement program, or the survivors, or other programs, that is a fairly standard yardstick to use. That is the one about which we keep all the records.

Senator HEINZ. As I understand it, the family benefit limitation would affect only those disability recipients with dependents. Isn't that right?

Mr. Ross. Yes, sir.

Senator HEINZ. Doesn't that strike you as somewhat punitive, let us say, reducing benefits to families of people who are disabled?

Mr. Ross. No, it is not punitive. You have really two cross-cutting concepts built into this program. It is a social insurance program. Insurance principles are important in disability programs. Somehow when the amount of benefits one can get by going on the rolls gets too high, you break too far away from the insurance concept.

The other concept is the social adequacy concept. Yes, you do attempt to provide more adequate benefits when there is a family than when there is a single worker. But you have to balance the two concepts. We feel that it is out of balance when there is an economic incentive because you can receive more money by being on the rolls than off the rolls.

It is not punitive. It is an attempt to bring some balance into that part of the program.

Senator HEINZ. What percentage of those on DI are elderly persons?

Mr. Ross. None because they would go into the retirement program. If they were over 65, they would be entitled to retirement pensions.

Senator HEINZ. So you don't see any impact on elderly people by putting a limitation on the total family disability payments?

Mr. Ross. No, sir.

Senator HEINZ. Thank you.

The CHAIRMAN. Senator Chafee.

Senator CHAFEE. Getting back to the chart again, take the situation where somebody appears on the initial decision, and it is one of the 20 percent that receives the benefits. Is he set, or does anybody review that on behalf of the government? Except when you have the periodic review of disability beneficiaries that you recommend?

Take the situation as it exists now, who looks after the government in case the award is made?

Mr. Ross. Except for the cases that are diaried for a further look, we are dependent on a couple of things—the beneficiaries, if they do go back to work, are supposed to notify us, and we take them off the rolls.

Senator CHAFEE. In some instances, there is a great disincentive to go back to work.

Mr. Ross. Exactly.

Senator CHAFEE. Supposing that he did not go back to work, how would you pick it up?

Mr. Ross. If they don't go back to work, they can remain disabled, unless it is the kind of condition that we see as medically improved for one of the diaried type cases.

Senator CHAFEE. It seems to me that as you go through this elaborate adjudication process, the best thing in the world that could happen to you is to get a favorable decision right off. If you are one of the 20 percent, you are lucky, but if you are one of the 80 percent, you really have to go through an arduous program. It is not until you get to the ALJ hearing that you get another real shot.

Mr. Ross. The reconsideration is a real shot. Twenty percent reversals is a substantial number of cases. You see, we were putting roughly 450,000 people on the rolls in 1978, and 357,000 go through the first time, but then you have almost 100,000 that come on the rolls at various points later, including 45,000 at the reconsideration stage, and roughly 45,000 at the ALJ stage.

Senator CHAFEE. I gather that at your ALJ hearings, the government is not represented, but the claimant has the right to bring an attorney. Is that right?

Mr. Ross. That is right.

Senator CHAFEE. You are suggesting changing that, are you?

Mr. Ross. We are going to run an experiment where the government is represented. We hope to accomplish several things by that. One, we want to encourage our people at the earlier stages to make good, solid decisions, and then let them know that if they do, we will defend the Government's decision.

Secondly, we want to put the ALJ in the position of being a true judge. The ALJ right now really has to wear three hats. First, the hat of the Government presenting the case, then the hat of the claimant arguing against it, and then taking both of those off, and putting on the hat of a judge. It is very difficult, and often, I think, one of the reasons we have so many court cases is that if the ALJ is too aggressive in questioning the witness, it may set up for a court reversal.

I think we have to bring more traditional administrative and judicial rigor into the process, and into this program.

Senator CHAFEE. It would seem that way to me. When you have an administrative law judge sitting there with the claimant being represented, and the government not being represented, I am not sure that he wears three hats, but certainly he wears two hats. One, he is listening to the case and trying to arrive at a decision; two, he is trying to see that the government's side gets represented.

Mr. Ross. I also think that the other thing I had up there is important. We would like to get face-to-face contact with the claimant in an informal setting much earlier, like at the reconsideration level; so that if somebody has some evidence or facts that mean that they should be allowed, it gets done without putting them to the rigors of a full administrative law proceeding, and gets the case cleaned up earlier.

I think that it would reduce the number of cases reaching that more elaborate stage. We are going to be experimenting with that technique also, if we get the authority.

Senator CHAFEE. I take it that the next step, the 4 percent reversal of whatever number that appeal, the reversals are all in favor of the claimant?

Mr. ROSS. There are 900 allowances, and 20,000 denials. The reason for that process is that we have over 650 administrative law judges—that is more administrative law judges than the total judges in the Federal judicial system—trying to bring uniformity and consistency to that large decisionmaking process, and it requires that kind of appellate court procedure.

What we would like to do is reconstitute the appeals council to make it work more like a true appellate court, seeking to get uniformity into the ALJ proceedings.

Senator CHAFEE. I must say that this is certainly a case where the poor claimant is put through a test of his persistency. If he has sufficient stamina, and has a good lawyer, he might prevail. If he does not, he probably loses out with those original 70 percent.

Mr. ROSS. Yes; but they can start over at any time. You see, one thing that happens is that conditions change. Very often, a medical condition will change during the course of the proceedings.

Senator CHAFEE. It seems to me that these administrative improvements are well in order.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Durenberger?

Senator DURENBERGER. Mr. Ross, I wonder if you would describe for me what in your opinion is the value of State involvement in the administration of these programs?

Mr. ROSS. The States have done the disability determinations, and have had the major relationships with the medical community and with the vocational rehabilitation units and other State programs. I think that, by and large, particularly in some of the States, they have a very good record of making these determinations. I do not think that federalization of the process is always the solution. I think that it would be far better to make the State process work better.

Senator DURENBERGER. But this report, that you summarized here today, does say that the weaknesses in the system are: There are substantial disparities in the disability evaluation of claimants from State to State; the ability of the Federal Government to exert effective management control over State administered program in the initial stages is limited.

We have pointed out the usual things, that we have a disparity and, therefore, we need to somehow change the system.

It seemed to me, as I listened to the questions you were asked about the adjudication process and the suggestions that are made in here regarding disability determination services, that in this kind of a situation you are always going to have disparity. I guess I am not yet persuaded that the disparities are so great that they might border on the unconscionable, for example, that it is important to bring a greater degree of standardization to the process.

What is it that through this rather elaborate process we really are trying to accomplish here?

Mr. ROSS. There is a GAO study, I believe, which goes into this, and which I am sure your staff has, which does urge federalization of the process. We believe that if you get regulations that set standards that people have to maintain, there would be a substantial enough improvement over the present situation that it is the way to go at getting incremental improvements into the process.

Senator DURENBERGER. Would you propose an example or two of what those standards might be?

Mr. ROSS. Well, accuracy of decisions. As I said, we are going to do more preadjudicative review, and we would require the States to meet more accurate decisionmaking targets, and also quicker processing time targets. Some of the States are doing a very fine job, and some are not. We work with the ones that are not more than with the ones that are, and try to help them to come up to the national median.

I think that the Federal Government would want to go in only as a last resort.

Senator DURENBERGER. I guess my concern becomes that the standards in and of themselves force federalization on some States. What I hear you saying is that it would be your objective not to cause that.

Mr. ROSS. There are some States that have indicated, and it is no secret, that they have been discussing whether they want to do this work. Wisconsin, for example. Senator Nelson is not here, but the Governor of Wisconsin has indicated that he does not see why, if it is a 100-percent federally financed program, the State of Wisconsin wants to do this determination process, and he is restudying it. There are possibly some other States that will do that.

If the States do not want to do it, then of course the Federal Government will. But as long as it is consistent with the States' other programs, and they do want to do it, and do it in a sufficiently high quality way, I think they ought to be left to do it.

Senator DURENBERGER. Thank you very much.

The CHAIRMAN. We have two votes back to back, and I think everybody will want to be on record on those votes. I will just ask a couple of questions of you before I go vote.

On pages 6 and 7 of your statement, you discuss this question of how much in benefits the disabled worker gets in relation with prior earnings. As I read your statement, the upper-limit ought to be about 80 percent of prior earnings.

What proportion of the disabled under age 50 on social security get more than that now?

Mr. ROSS. I will have to put that into the record, Mr. Chairman.

The CHAIRMAN. What proportion get more in benefits than 100 percent of prior take-home pay?

Mr. ROSS. That is the 6 percent, sir.

The CHAIRMAN. So 6 percent get actually more than 100 percent of prior take-home pay?

Mr. ROSS. Yes, sir, and 16 percent get more than 80 percent.

The CHAIRMAN. Can you tell me what percentage of disability cases under age 50 would get more than 100 percent of their prior take-home pay under present law and under the House bill? What change would we have to make in this bill to assure that no one would get more than 100 percent of his prior take-home pay?

Mr. ROSS. Mr. Chairman, we can submit that data on the breakdown by age group.

The CHAIRMAN. All right.

[The following was subsequently supplied for the record:]

7. *Question.* How many beneficiaries under age 50 have benefits that are greater than 100 percent of predisability earnings?

Answer. There are many ways of measuring a worker's predisability earnings. One measure is average indexed monthly earnings (AIME)—the earnings figure underlying the social security benefit computation. We estimate that, during 1979, about 15,000 workers under age 50 will be awarded family disability benefits that exceed 100 percent of AIME; this figure represents about 7 percent of benefit awards to all workers under age 50. About 25,000 workers of all ages, or 6 percent of the total, will be awarded family benefits exceeding 100 percent of AIME.

Mr. Ross. I do believe that the House bill provision, the so-called cap, does largely eliminate people coming away with more by coming on the rolls than they made while they were working.

The CHAIRMAN. H.R. 3464 would redefine one of the key elements of the SSI disability definition of substantial gainful activity. This change does not directly apply to the disability insurance program, but your actuaries have estimated a minimum spill-over impact on that program of some half-billion dollars annually, although these costs would apparently build up over time. Moreover, since the same individuals administer both programs, it would likely be difficult to maintain this situation in which the same words have quite different meanings in two programs. If that distinction is not maintained, your statement indicates on page 25, the increased annual cost will be some $7 billion.

Thus, would it be correct to say that adopting this provision of the House bill would, in the long run, raise the cost of disability insurance somewhere between one-half billion dollars and $7 billion a year?

Mr. Ross. Yes. We strongly oppose that change in the SGA because I think that it is very important to recognize that that is part of the definition of disability, and were that provision to be enacted, it would create very serious disparities as we point out in the testimony at some length.

The CHAIRMAN. I have some questions that Senator Baucus left me, and I would like to submit those on his behalf. You can answer those questions for the record.

Mr. Ross. We will be glad to answer those for the record, sir.

Senator HEINZ. Mr. Chairman, is it our plan to come back here and continue the hearing?

The CHAIRMAN. Yes, sir. We have those two votes, but if you want to ask a few more questions you can. Do you want to ask some more questions now?

Senator HEINZ. So, I can submit those questions to you.

Mr. Ross. If you want to submit any more questions, we will be glad to answer them for the record. If either you or any of your staff would like to discuss the bill further, either myself or some of my staff will be glad to come and walk you through the bill provisions.

[The questions and answers so referred to follow:]

1. *Question.* Would SSA consider shortening the waiting period—possibly to 2 or 3 months?

Answer. The Administration would not favor a reduction in the current 5-month disability waiting period.

There has been a waiting-period requirement (originally 6 months) since social security disability benefits were first provided. The original purpose of the waiting period was to limit the cost of the disability program and to allow time for most essentially temporary impairments to be corrected or to show definite signs of improvement. The cost consideration is still valid today, although the waiting period is no longer a measurement as to whether or not an impairment will be temporary. Most insurance and indemnity programs provide a waiting-period or a co-insurance feature to avoid frivolous claims and to make more certain that the impairment is not temporary and that the individual is unable to work because of the impairment.

The potential for financial difficulty for disabled workers and their families during the 5-month waiting period is substantially reduced because of other private and public benefits. About two-thirds of the Nation's wage and salary workers are protected under employer sick-leave or wage-continuation plans or under sickness insurance in the event they become disabled. Five States (New York, California, New Jersey, Rhode Island, and Hawaii) and Puerto Rico have compulsory temporary disability programs which provide benefits for up to 26 weeks of disability, and about one-fourth of the workers in private industry are covered under these programs. Over 20 million people are covered under private pension plans with disability retirement provisions and many of these people are protected for the early months of disability. Also, under the Federal Supplemental Security Income Program, needy disabled and blind people are eligible for monthly payments without having to serve a waiting period.

If the waiting period were reduced from 5 months to 3 months (and retaining the present 12-month duration requirement), about $500 million would be paid in additional benefits in the first full year after enactment; reducing the waiting period to 2 months would result in about $700 million in additional benefits being paid during the same period. The long-range program costs would be 0.07 percent of taxable payroll for disability insurance benefits and 0.01 percent for hospital insurance. Considering the availability of other forms of disability protection during the early months of long-term disability, an increase of this magnitude does not seem warranted.

2. *Question.* Does the Administration favor eliminating the 5-month waiting period for the terminally ill as advocated in S. 1203?

Answer. The Administration does not recommend eliminating the 5-month waiting period in cases of terminal illness. We recognize that the waiting-period requirement can mean that some terminally ill people may not receive any disability benefits. However, we believe that the same arguments (see answer to question 1) for not eliminating or shortening the waiting period for all disabled beneficiaries also apply to the terminally ill.

In addition, we believe the provision will be difficult to administer because of the uncertainties surrounding a medical prognosis of "a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months." Some people who initially might be expected to die within 12 months after onset survive longer. These people could receive benefits beginning with the first full month of disability. On the other hand, some others who might be expected to live longer than 12 months would die within that period. These people could not qualify for benefits until the first full month of disability after the 5-month waiting period. This disparity in treatment could result in pressure to eliminate the waiting period in all cases which would significantly increase program costs.

If benefits were paid prospectively based on medical prognosis, the long-term range program cost could be as high as .03 percent of taxable payroll. It is estimated that $150 million would be paid in additional benefits in the first full year after enactment.

3. *Question.* One reason cited for the social security disability insurance legislation is the need to insure the financial disability insurance trust fund.

My understanding is that the trust fund is secure. The growth rate of the number of beneficiaries on the rolls is the lowest since the beginning of the program. Also, the Social Security Amendments of 1977 corrected the error in indexing benefits that initiated the trust fund crisis.

In fact, recent findings of the social security trustees report show a projected long-run deficit has been reversed to a projected long-run surplus of .28 percent of payroll. These new developments show that the trust fund is expected to be in surplus every year for the ensuing 75 years.

A recent CBO report also showed that while deterioration in the financial soundness of the social security system may occur during the next 5 years, the problem lies in the old age and survivors' (OASI) 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.

What is your response in view of these findings?

Answer. It is true that because of recent favorable disability experience, the DI trust fund is now projected to be in relatively better shape than the OASI trust fund, unlike the situation before enactment of the 1977 amendments. And it is true that the House-passed legislation would have a relatively small positive effect on disability insurance financing. However, the disability insurance proposals which the Administration supports are not intended to improve the financial status of the program but to address the question of equity and fairness between various categories of beneficiaries, improve program administration and provide more incentives for disabled people to return to productive activity.

The social security disability legislation passed by the House is a constructive and balanced approach developed over a number of years of bipartisan effort by the Social Security Subcommittee of the House Committee on Ways and Means and it would make some necessary reforms in our disability insurance program by:

Establishing a more efficient administrative structure for making disability determinations;

Making the program more equitable by preventing people from receiving benefits which equal or exceed their take-home pay before becoming disabled; and

Removing disincentives for disabled people who want to return to work.

The question of whether or not recent disability insurance experience indicates a long-term trend that would result in significantly more favorable disability insurance trust fund balances in the future than has been the case in the past should not affect our assessment of the merits of this proposed legislation.

4. *Question.* Could you explain to the committee the factors contributing to the rapid growth of the SSDI program in the 1970's? One component influencing participation in the program seems to be unemployment rates. What are your projections over the next 5 years in terms of the cause and effect phenomenon of unemployment and participation in the disability program?

Answer. Several factors probably contributed to the rapid growth of the disability insurance (DI) program during the first several years of this decade, but there is no general agreement on the extent to which each of the factors explains past trends in program growth. These factors are:

1. Changes in administrative procedures for the disability determination and review processes.
2. The beginning of the supplemental security income (SSI) program in 1974. There had been indications that a significant number of disabled persons who were receiving public assistance payments before 1974 were eligible for, but not receiving, disability insurance benefits. Probably many of these disabled persons began receiving DI benefits when they were identified for SSI purposes.
3. Legislative changes such as: (a) liberalizations in the basic definition of disability and in eligibility requirements, enacted in 1965 and 1967; (b) reduction in the disability waiting period from 6 months to 5 months, enacted in 1972; and (c) increases in DI benefit levels.
4. The 1974-75 recession and the resulting higher rates of unemployment.
5. Increased awareness of the DI program by the general public.

The experience of the DI program in 1978 and 1979 has been more favorable than had been anticipated. The number of new benefit awards to disabled workers in 1978 and in the first three quarters of 1979 is substantially lower than in previous years. Part of this decline in awards may have been related to the continuing growth in the economy since the last recession. The number of claims for DI benefits in 1978 and in the first three quarters of 1979 has also been somewhat lower than in previous years. However, since the percentage decline in awards was much greater than the percentage decline in claims, a more significant factor may have been improvements in the disability determination process. The effect of the SSI program on DI program growth may also be declining. The actual decline in awards was probably related to some combination of all of these factors, but as indicated above, specific cause-and-effect relationships cannot be reliably determined.

Our estimates of the operations of the disability insurance trust fund shown in the Mid-Session Review of the President's 1980 Budget were based in part on the assumption that the average annual unemployment rate will be 6.1 percent in 1979 and 6.8 percent in 1980. (The 1978 rate was about 6 percent.) The average annual number of disability awards projected during the next 5 years 1980-84 is 14 percent higher than the number projected for 1979. About half of this increase is attributable to increases in the population insured for disability, and the other half reflects, in part, the assumed higher unemployment rate in 1980, as well as an assumed partial return to the long-term historical trend in disability incidence rates observed during the years before 1974.

In view of economic developments since the Mid-Session Review assumptions were prepared, especially the recent increases in interest rates, the average unemployment rate for 1980 will probably exceed the assumed rate of 6.8 percent. Under the pessimistic set of assumptions (i.e., alternative III) in the 1979 Trustees Report, the average unemployment rate for 1980 was assumed to be 8.2 percent. The average annual number of disability awards projected over the next 5 years under the assumptions of alternative III was 16 percent higher than the number projected for 1979.

5. *Question.* One reason cited in justification of the benefit cuts is that no one should receive benefits exceeding what they earned in the work force. What statistics do you have which demonstrate the need for this major change? And what do we know about the increased cost and needs of the severely and permanently disabled person?

Answer. We have estimated that at least 6 percent of disabled workers are awarded family benefits that exceed their recent predisability earnings, net of estimated income and payroll taxes and work-related expenses. Up to now there has been no comprehensive analysis of the special expenditure needs of the disabled. A study on the issue is now being done under a grant from the National Science Foundation but will not be completed for several months.

6. *Question.* Finally, the SSDI program is an earnings replacement program. Do we have any statistics to show whether the benefits are adequate? One way to demonstrate this might be to determine whether the recipient is receiving other forms of Federal aid.

Answer. There are a number of measures that may be used to determine whether social security disability benefits are adequate. These measures may be separated into two broad categories.

Absolute standards focus on dollar amounts of income and define adequacy in terms of the total income required to purchase a specified set of goods and services. An example of an absolute standard would be the SSI income guarantee level. In 1978 less than 20 percent of all disabled worker beneficiaries received social security benefits below the income guarantee provided by the Federal portion of SSI.

Relative standards for evaluating adequacy of social security benefits focus on the relationship between income after disability and previous earnings or private pension contributions. The social security benefit formula is especially designed to produce benefits in most cases which are adequate in these terms. In fact, the weighting in the formula provides that a low-wage worker gets a benefit that is a higher percentage of his previous earnings than does a high earner. This was done in recognition of the fact that the low-paid worker has less margin for reduction in his income than does the worker with average or above-average earnings and also has had less opportunity to supplement his benefits with private savings and investment income.

The attached table shows the various kinds of benefits received by workers who receive social security disability insurance benefits. This is the latest information we have.

Attachment.

INCIDENCE OF MULTIPLE TRANSFER INCOME ENTITLEMENTS AMONG DISABILITY INSURANCE BENEFICIARIES[1]

All persons	Annual disability insurance family benefits						
	$0-799	$800-1,599	$1,600-2,399	$2,400-3,199	$3,200-3,999	$4,000 or more	All levels
Number of disabled workers (in thousands)	2	243	464	128	120	122	1,078
Percent of disabled workers	.2	22.6	43.0	11.8	11.1	11.3	100.0
Percent of each group which also receives each of the following kinds of benefits:							
Railroad retirement		.7	1.0			.9	.7
Veterans compensation		17.4	20.4	27.4	27.4	32.5	22.7
Workers compensation	41.1	1.2	3.4	3.3	8.6	9.4	4.2
Government pension		4.4	6.9	5.9	3.2	7.8	5.9
State sickness insurance		.4	.4	1.7			.5
Unemployment insurance		1.8	1.0	.7	.7	.8	1.1

INCIDENCE OF MULTIPLE TRANSFER INCOME ENTITLEMENTS AMONG DISABILITY INSURANCE BENEFICIARIES [1]—Continued

All persons	Annual disability insurance family benefits						
	$0-799	$800-1,599	$1,600-2,399	$2,400-3,199	$3,200-3,999	$4,000 or more	All levels
APTD-AB		12.9	6.1	4.6	1.9	3.9	6.8
AFDC	31.1	4.8	2.1	1.5	1.9	2.2	2.7
Other welfare		4.8	4.3	1.7	1.7	2.4	3.6
Private pension		2.9	14.2	12.7	10.8	23.9	12.2
Private insurance		.3	4.8	3.7	3.8	1.7	3.2
Relatives outside household		3.7	1.6	4.6	.8	1.6	2.3
Any of above	72.2	44.2	52.6	54.2	56.3	67.8	53.1

[1] Estimate for all beneficiaries in current payment status in December 1971, with initial entitlement before 1971. Based on the 1972 Survey of the Disabled. Detail may not add to total because of rounding.

8. *Question.* What can we do to make sure that no one gets over 100 percent? Does H.R. 3236 do this?

Answer. If H.R. 3236 had been in effect in 1979, we estimate that about 10,000 workers of all ages, or 2½ percent of the total, would be awarded family benefits exceeding 100 percent of AIME. There would be no cases of benefits in excess of 100 percent of AIME only if there were no minimum primary insurance amount (PIA) and if the maximum family benefit in H.R. 3236 did not guarantee each disabled worker at least 100 percent of the PIA.

The CHAIRMAN. Thank you very much. I would appreciate it if you could stay in the hearing room for a while after the other Senators get back in just in case someone wants to call you back to interrogate you further about this matter. If you could work that out, I would appreciate it.

Mr. ROSS. Yes, sir.

The CHAIRMAN. Please understand that we had planned to have this as a morning hearing when there would not have been so many rollcalls, but we pushed it back because we are trying to get the windfall tax bill out that the President wants reported.

[The prepared statement and charts of Mr. Ross follow:]

STATEMENT BY STANFORD G. ROSS, COMMISSIONER OF SOCIAL SECURITY

Mr. Chairman and members of the Committee, I welcome the opportunity to appear before you to discuss H.R. 3236—the "Social Security Disability Reform Bill"—and H.R. 3464—the "Supplemental Security Income Amendments of 1979." We are pleased that you are considering these bills which, in general, represent a thoughtful, constructive approach to improving our disability programs.

An integrated approach to reform in the social security and SSI disability programs is essential. These programs are tightly interwoven: they share the same definition of disability; they share the same administrative process for determining disability; and many beneficiaries receive benefits from both programs. Changes to these programs should be made in a consistent and parallel manner; otherwise, anomalies and inequities will result which I will discuss in some depth later in my testimony.

These bills are the result of an intensive study over a long period of the disability programs, in which the Senate, the House, and the Administration have all participated. In fact, Mr. Chairman, suggestions made by you and Chairman Ullman prompted our decision to look first at disability during our review of all social security programs. We consulted with Members of Congress, representatives of the States, and national organizations representing the disabled and others. Some of the problems identified in this comprehensive review are:

The growth of the disability insurance (DI) program far exceeded all expectations and continues to do so:

Established in the 1950's, the social security disability program paid about $.5 billion in benefits in 1960 and a little over $3 billion in 1970.

But the number of beneficiaries nearly doubled between 1965 and 1975, and the costs during the 1965-1975 period rose more than five-fold from $1.6 billion to $8.4 billion.

Today, only 4 years later—and even though the rate of increase in the number of beneficiaries is slowing—annual costs have doubled to almost $16 billion.

Within the next 10 years, costs are projected to redouble over today's level: the annual benefits would be over $30 billion.

Both the SSI and DI programs contain disincentives—rather than incentives—to encourage disabled beneficiaries to return to the work force. For example:

Benefits exceed net predisability earnings in about 6 percent of the DI cases.

In about 16 percent of the DI cases, families receive benefits that are more than 80 percent of the worker's predisability net earnings.

Cash and medical benefits are terminated too quickly when beneficiaries attempt to return to work; beneficiaries who successfully return to work but then fail to continue have risked and lost all benefit protection until they complete another lengthy disability determination process.

The process for determining if an individual is disabled is confusing and cumbersome.

There is a high reversal rate at each stage of the appeals process, and the Federal courts are clogged with disability cases.

There is evidence that results are not uniform in the way that determinations of disability are made and administrative progress, while substantial in the last few years, has only begun to address the most difficult aspects of the problem.

The provisions contained in H.R. 3236 grew out of these findings. Some provisions in H.R. 3464 complement the changes made by H.R. 3236. H.R. 3236 and the complementary provisions of H.R. 3464 have a shared purpose—to modify the DI and SSI programs to provide effective support to the disabled in this country in a fair and equitable way. The legislation before you today:

Changes the level of social security disability benefits for future beneficiaries with dependents also entitled to social security so that family benefits are not excessively high relative to predisability net earnings;

Provides special work incentives and support for disabled people who want to try to work in spite of severe handicaps; and

Provides for significant changes in the current administrative arrangements for making disability determinations to make program administration fairer, more responsive, and more uniform.

We believe the legislation is basically sound and addresses the concerns this Committee has expressed about the need to operate the SSI and social security disability insurance programs in an effective and humanitarian way. I would like to begin by describing briefly the major provisions of the legislation as well as some administrative actions we are planning to take and one important provision that we hope will be added to the legislation. I will then discuss two provisions in H.R. 3464, one of which the Administration believes would alter fundamentally the definition of disability for disabled SSI beneficiaries, and one of which adds a third earnings disregard. We oppose both provisions.

Cost estimates for the two bills are appended to my statement. But it is important to emphasize at the outset that the motivation for the legislation before you is not to cut costs, but to improve the SSI and DI programs and their administration. Various provisions of the legislation produce savings and others have costs. Overall cost effects would be:

H.R. 3236 as passed by the House:

Would have a cost of $76 million in fiscal year 1980;

By 1984, it would have a cost savings of $957 million;

The House bill would have a net long-range cost savings to the OASDI trust funds of .21 percent of taxable payroll.

H.R. 3464 as passed by the House:

Would have a cost of $11 million in FY 1980;

By 1984, it would have a cost of $260 million.

If the House versions of H.R. 3236 and H.R. 3464 were considered together, the resulting cost effects would be:

In fiscal year 1980, a net cost increase in Federal Government expenditures of $87 million;

In fiscal year 1984, a net savings in Federal Government expenditures of $697 million.

If the Committee adopts the changes we are recommending in the provisions of the two bills, the resulting legislation would show:

In fiscal year 1980, a net savings in Federal Government expenditures of $21 million;

In fiscal year 1984, a net savings in Federal Government expenditures of $630 million.

We look forward to working with you to assure that this legislation—vitally important to the lives of millions of disabled Americans as well as the taxpayers of this country—becomes a reality as soon as possible.

MAJOR PROVISIONS OF H.R. 3236 AND H.R. 3464

Restructure benefit levels

Reduce the limits on maximum family benefits.—The first provision of the legislation I would like to discuss is the limitations, the so-called cap, on the maximum social security family benefits in H.R. 3236. This cap would place a ceiling on the amount of social security monthly benefits payable to a disabled worker and the worker's family. This provision would apply only to families who begin to receive benefits in the future. The benefits of persons now on the rolls would not be reduced.

A disabled worker gets a monthly benefit which is based on his or her prior earnings in covered employment. Any dependents also get monthly benefits. The amount dependents receive is directly related to the amount the disabled worker receives. For example:

A dependent spouse gets an amount equal to 50 percent of what the worker gets.

A child also gets an amount equal to 50 percent of what the worker gets.

There is a limit in the law already on the amount of benefits that can be paid to a family. This maximum family benefit is related to the amount of the basic benefit, which is paid to the worker. It varies from 150 percent of the basic benefit at the lowest earnings levels, to 188 percent for people whose average lifetime earnings are about $9,000 per year, to 175 percent for people with higher earnings. However, even with this limitation, some disabled worker families receive benefits which are excessively high in comparison with their prior earnings:

Family benefits in about 6 percent of all cases actually exceed the disabled person's previous net earnings.

In about 16 percent of all cases, families receive benefits that are more than 80 percent of the worker's average predisability net earnings.

These are higher replacement rates than are considered sound in the private sector. For example, most employee disability plans seek to insure between 50 percent and 60 percent of gross pay, assuming that this will amount to about 75 to 80 percent of net earnings. As can be seen, social security disability benefits are now higher than this in a considerable number of cases. We think this is inappropriate.

These high social security benefits result because dependents' benefits are paid on top of the worker's benefit, which is wage-related. Thus, we are proposing a limit on family benefits of disabled workers who become entitled in the future.

The provision to limit family benefits is the most controversial aspect of the disability insurance legislation. At the same time that there is significant support for a limit, there is dispute as to the exact terms it should follow and a number of proposals have been offered. I would like to discuss briefly five proposals which have been made—the bill initially introduced by the House Subcommittee on Social Security, H.R. 2054; the Administration's bill, H.R. 2854; the amendments of Representative Gephardt to H.R. 3236 which failed of adoption in the Ways and Means Committee by only two votes, 16–14; H.R. 3236; and the Advisory Council proposal.

H.R. 2054 proposed a cap of the lower of 75 percent of average indexed earnings or 150 percent of the worker's benefit.

The Administration bill proposed a cap of 80 percent of average indexed earnings.

The Gephardt amendment proposed a cap of the lower of 80 percent of average indexed earnings or 130 percent of the worker's benefit.

The compromise proposal in the House bill is for the lower of 80 percent of average indexed earnings or 150 percent of the worker's benefit.

The Advisory Council has proposed a cap equal to 90 percent of the earnings of the high-five consecutive indexed years. (Unlike the other proposals which would adjust the cap by price increases after entitlement, this option would use wage increases.)

In every case, family benefits could not be reduced below the level of the worker's benefit as a result of the cap.

Let me show you the effects of the different caps by referring to these charts.

This first chart shows the maximum family benefits payable at selected earnings levels under each of the five different caps.

However, a better idea of the effects can be seen on this second chart, which shows the percentage of change in family benefits from present law.

This first column gives selected levels of average lifetime earnings: $135 per month—a very low level of average earnings, which would represent workers with only marginal attachment to the work force. This is the highest level of earnings which provides a minimum benefit; $479 per month—the level of the worker who has always earned at the level of the Federal minimum wage; $887 per month—the earnings level for workers with average earnings in each year of their working careers; and $1,700 per month—the level of a young disabled worker based on 2 years of high earnings.

In every case, benefits at the lowest level—the worker with only marginal attachment to the work force—would be reduced by about 33 percent. This is because in each case, the cap would be equal to the amount of the worker's benefit, rather than 150 percent of the worker's benefit as under present law.

Under H.R. 2054, reductions in family benefits would range from this 33 percent to about 14 percent for the low earner, about 17 percent for the average earner, and about 14 percent for the young disabled worker with 2 years high earnings.

Under H.R. 2854, reductions would be less—about 8 percent for the low earner, 2 percent at the average level, and nothing beyond that.

Under the Gephardt amendment, reductions would be greater than under H.R. 2054—about 17 percent at the low earnings level, about 28 percent at the average level, and about 25 percent at the higher level.

Benefit reductions under H.R. 3236 can be viewed as a compromise between the other proposals. There is about an 8 percent reduction at the low earnings level, about 17 percent at the average level, and about 14 percent at the higher level.

The Advisory Council proposal would reduce family benefits only at the very lowest levels—average earnings of $300 and below.

Some critics of the cap in H.R. 3236—80 percent of average earnings and 150 percent of the worker's benefit—have said that this proposal would primarily affect low-income people, particularly minorities. However, a consideration of the source of the saving of this proposal shows the contrary—about 80 percent of the saving will result from benefits paid to families of workers whose average career earnings were higher than the Federal minimum wage level.

Let me now turn to the third chart, which compares the saving for the five proposals. Again, the cap provision in H.R. 3236 represents an intermediate position. Over the first 5 years, the H.R. 3236 cap would save $1.4 billion, less than the $2.5 billion saved under the Gephardt amendment, about the same as the saving under H.R. 2054 and more than the saving under the 80 percent cap or the Advisory Council proposal.

The chart also shows how much of the saving would be derived from families in which the disabled workers were fairly low earners or fairly high earners. For this purpose, we have used average career indexed monthly earnings of $530 a month or less as a measure of low earnings. This amount is about 10 percent above the level of a career Federal minimum wage earner in 1980. It was selected because family benefits of workers with average career earnings below this level would be affected by the 80 percent factor in the cap provision in H.R. 3236. The 150 percent factor would affect workers with average career earnings above $530. Looking at the totals for the first 5 years:

Under H.R. 3236, of the $1.4 billion saved over the first 5 years, $307 million, or 23 percent, comes from families of workers with AIME below $531.

Under H.R. 2054, $376 million comes from those families with AIME below $531—22 percent more than under H.R. 3236.

Under H.R. 2854, the effect on families with AIME below $531 is the same as H.R. 3236.

Under the Gephardt amendment, $363 million comes from families with AIME below $531—18 percent more than under H.R. 3236.

Under the Advisory Council proposal, nearly all of the $50 million comes from families with AIME below $531.

Clearly, reasonable people can disagree on the terms of the cap that should be enacted. The significant point is that some meaningful cap on family benefits is important in the disability insurance program to ensure the program has no incentive for workers to view themselves as disabled. We believe that the cap in H.R. 3236 fulfills this requirement.

Proportional allocation of dropout years.—A second provision in H.R. 3236 is designed to eliminate a feature of the present program that favors younger workers.

Under current law, all disabled workers, whatever their years of coverage, are allowed to exclude 5 years of low earnings in computing their benefit amounts. This favors younger workers, since these so-called "Dropout" years represent a greater proportion of their work history. Thus, young disabled workers get higher benefits in relation to their prior earnings than do older workers.

The provision in H.R. 3236 makes the number of "dropout" years proportionate to the length of a worker's career. A worker who became disabled at age 27 could drop out 1 year of low earnings in computing the benefit, while a worker who became disabled at age 47 or later could drop out the maximum of 5 low-earnings years in computing the benefit. Thus, all workers would be permitted to disregard the same proportion of their work histories in computing their benefits. Like the replacement rate ceiling, this proposal would not apply to beneficiaries now on the rolls.

The provision would also allow additional years of low earnings to be disregarded in the computation of benefits when those low-earnings years resulted from providing care to a young child. The total number of regular dropout years plus childcare years could not exceed a maximum of five for any worker.

Provide work incentives

In addition to modifying the benefit structure, this legislation also focuses on work incentives and rehabilitation. Too few beneficiaries are currently being rehabilitated, and financial disincentives built into the present system may actually discourage their return to work.

Under current law, disability beneficiaries who want to return to work face loss of cash benefits and eligibility for Medicare or Medicaid after completing a 9-month trial work period. Many cannot afford to take the risk that their work attempt will subsequently fail, leaving them without benefits and medical insurance, and requiring them to go through the disability determination process all over again.

While Federal spending on rehabilitation has risen 96 percent since 1971, the rate at which beneficiaries leave the rolls has fallen. Ten years ago, 3 percent of beneficiaries left the benefit rolls annually because of medical recovery or return to work. By 1976, that rate had dropped to 1.5 percent. While we have seen some improvement in the last year—about 2.3 percent are leaving the rolls—we can do better; we can provide better ways to help people get back to work.

The bills before you have five important measures which will directly reduce the risk of total benefit loss to beneficiaries who want to try to rejoin the work force or who might be able to work in spite of their impairments:

Deduction of impairment-related work expenses.—Under both the SSI and the social security DI programs, the bills provide that impairment-related work expenses, including the cost of attendant care, would be deducted from earnings for purposes of determining whether an individual is engaging in "substantial gainful activity."

This provision is designed to help those beneficiaries who are highly motivated to work but whose impairment-related work expenses would absorb much of their earnings if they did re-enter the labor force. For example, a person who requires attendant care in order to work may be able to earn only slightly more than the cost of such care. Returning to work may be important to such a person's self-esteem, but it may be financially impossible if medical benefits as well as cash benefits are lost.

With this change in the law, disabled beneficiaries who return to work would be considered disabled until their earnings were sufficient to cover the threshold work expenses caused by impairment. The deduction would also be allowed in calculating the amount of SSI benefits.

Reentitlement to benefits.—The second work incentive provision provides for automatic reinstatement of disability benefits to a DI or SSI beneficiary who completes a trial work period and leaves the benefit rolls but is unable to continue working.

Now, when a beneficiary successfully completes a 9-month trial work period and continues to work, the person is considered to be no longer disabled. If the work effort then fails, the worker must reapply for benefits and go through the adjudication process all over again. This provision is a "safety net" for beneficiaries who return to work. Benefits would still stop, but if the individual were forced to abandon a work attempt within 12 months after DI or SSI benefits end, benefit payments would resume automatically without reapplication.

H.R. 3464 provides an added safety net. If an SSI beneficiary must stop work after the automatic reinstatement period ends, but within the next 4 years, he or she can reapply and begin immediately to receive SSI benefits without waiting for a determination of disability on new application. If the beneficiary is found not disabled, then benefits will stop, but those already received will not be considered overpayments.

Extension of medical benefits.—The third work incentive is perhaps even more important in terms of providing assistance to those being rehabilitated. The loss of medical care benefits strongly discourages disabled beneficiaries from trying to return to work. Thus, a DI beneficiary would remain covered by Medicare for a full 4 years after returning to work.

H.R. 3464 does not contain a comparable extension of Medicaid for SSI beneficiaries. This is not because the House Ways and Means Committee was not sympathetic to the need, but because it does not have jurisdiction over Medicaid. It is a change proposed in the Administration bill and one we would hope to see accepted by this Committee.

Medicare waiting period.—The fourth work incentive provision eliminates the second Medicare waiting period. Under current law, social security DI beneficaries must wait 24 months after becoming entitled to benefits to become eligible for Medicare. If a beneficiary returns to work, however, and then becomes disabled again, another 24-month wait is required before Medicare coverage is resumed. The legislation eliminates this second waiting period and extends Medicare coverage immediately to the worker who becomes disabled again within 5 years of a previous disability.

Extend trial work period eligibility.—The last work incentive provision extends the trial work period and the full 4 years of medical benefits to disabled widows and widowers under the social security DI program. We believe this group of beneficiaries should be treated like disabled workers.

These five provisions are designed to minimize the risk that beneficiaries must take in order to return to the labor force. They would apply to current beneficiaries as well as to new beneficiaries. While these provisions have some initial cost, we believe that in the long run more disabled beneficiaries will make the effort to return to productive employment, and these provisions will reduce program costs. The most significant savings in this program, for everyone concerned, results from beneficiaries returning to the work force.

Vocational rehabilitation services.—An additional provision related to the beneficiary work incentives would strengthen the vocational rehabilitation services arrangement that we have with the States. The present trust fund financing of rehabilitation would be changed and would be based on successful rehabilitations. H.R. 3236 would provide a bonus to State VR agencies for providing vocational rehabilitation services that result in a beneficiary's engaging in substantial gainful activity for a continuous period of at least 12 months.

The new funding arrangement would require the same 20 percent State-80 percent Federal funding allocations as used under the Rehabilitation Act of 1973, but in addition would provide a bonus payment to States equal to 100 percent of the State share for successfully rehabilitated cases. A similar bonus would be provided for clients whose cases are closed after employment in sheltered workshops and who work for 12 months.

We believe a legislative initiative in this area could improve overall rehabilitation efforts. In the past, Federal funds for VR services provided by the State agencies to DI or SSI disability beneficiaries were allocated solely on a population basis. Last year, in an effort to improve VR effectiveness, we began basing 50 percent of the allocation on each State's relative success in rehabilitating beneficiaries and the other 50 percent on a per capita basis. However, we believe the bonus arrangement provided in the legislation would be more helpful in encouraging rehabilitation and in targeting the use of trust fund money.

Change in program administration

The disability legislation before you also provides for a major change in program administration. Since the beginning of the DI program (1974 for the SSI program), the States and the Social Security Administration have jointly administered disability determinations. This process has developed into a huge adjudicatory system, with almost 1.2 million claims annually under the DI program and 1 million claims under the SSI program. This system has a number of weaknesses:

There are substantial disparities in the disability evaluations of claimants from State to State.

The ability of the Federal Government to exert effective management control over the State-administered initial stages is limited.

There are high reversal rates at the reconsideration and hearings levels.

There is insufficient review of State agency allowances and disallowances.

Claimants have no opportunity beyond filing their initial claim for a face-to-face interview on their case until relatively late in the process—at a hearing before a Federal administrative law judge.

We are addressing some of these problems administratively, but legislative action is also needed.

H.R. 3236 contains a provision, also in the Administration's bill, which fundamentally modifies the current Federal/State relationship for administering the disability program. This provision provides that the Secretary establish through regulations the standards and criteria for measuring State performance against administrative requirements. The States would have the responsibility to meet the performance standards, but States would be given latitude on how they manage their agency activities.

Under this arrangement, the Secretary would:

Set standards of accuracy, processing time, and cost effectiveness for States;

Provide States with annual (and quarterly) spending targets;

Provide incentives for good performance; and

Furnish technical assistance as appropriate.

There would be a minimum of Federal oversight in the day-to-day management of the Disability Determination Services in the States.

Under the bill, each State has the option of continuing to make disability determinations in compliance with regulations the Secretary would issue, or turning that responsibility over to the Federal Government. If a State elects to continue making disability determinations but later fails to comply with the regulatory standards, HEW would be authorized to assume direct responsibility.

I want to emphasize that we encourage continued State administration of disability decisionmaking. We must also assure, however, that a 100 percent federally financed program, for which the Federal Government is ultimately accountable to the taxpayers, is administered effectively throughout the Nation. This legislative change will enable us to enforce standards of quality in the decisionmaking process nationwide without unduly interfering with State agencies.

Administrative actions being taken by SSA

Before turning to our recommended changes in H.R. 3236 and H.R. 3464, I would like to discuss some administrative improvements which will, in concert with the legislative changes we recommend, address the operational areas of concern that I mentioned. Our major efforts include:

Increasing pre-effectuation review of initial State determinations in order to assure greater accuracy at the front end of the disability program.

Exploring the use of informal, face-to-face interviews at the reconsideration level. Claimants would be able to discuss the denial decision and ask questions without having to wait until the hearing level.

Using an SSA representative at the hearing level to present and defend reconsideration decisions. SSA plans to pilot test this approach at four locations early in 1980.

Reconstituting the current Appeals Council as an SSA Review Board, to serve more like an appellate court.

Increasing the review of beneficiaries receiving disability benefits to ensure that only those people who continue to be disabled receive benefits. In order to do this on a cost-efficient basis, we are reviewing the categories of impairments to determine which categories of beneficiaries should be periodically reexamined on a routine basis.

These administrative changes were planned as an extension of the legislation you are currently considering and are essential elements of disability reform. There are a few modifications needed to the bills to provide the necessary framework and the support for our administrative reforms. But I would like to note that my statements on the administrative initiatives we have taken, or plan to take, assume a disability reform bill will become law this year. If a bill is not enacted, we will have to review these initiatives in light of their appropriateness to alternative, incremental changes.

Finally, I must caution that budget constraints must always be considered in light of proposed administrative changes. We will necessarily have to set priorities among the array of measures we would like to take so that we do not exceed the available resources. The cost effectiveness of each measure will have to be closely scrutinized within the context of the overall administrative process.

Changes in the legislation

I have reviewed for you all of the significant provisions of these bills to which we have given our support. I would like to discuss now a provision we wish to have included in the legislation and two provisions of the House-passed SSI bill where we believe some changes are necessary. There are other recommendations we have to improve the effectiveness of the House bills, and I am submitting these recommendations as an appendix to my statement.

Judicial review of SSA decisions

The Administration's bill included a proposal to limit judicial review of final decisions in the social security and SSI programs to questions of constitutionality and statutory interpretation. The House made some changes to try to improve the situation but did not adopt the Administration's proposal. We continue to believe it deserves serious consideration. If decisions are the product of the careful adjudicatory process I have described, claimants will be adequately protected by being able to take questions of law to the courts. A change of this kind could, we estimate, eliminate 80-90 percent of the 8,000 to 10,000 new disability cases going to the courts each year.

The law currently specifies that the Secretary's findings of fact are final if supported by substantial evidence. The substantial evidence rule has proven unworkable. Often, the courts will review a case "de novo" in an apparent attempt to provide "rough justice" to claimants who are in ill health or otherwise disadvantaged but who do not meet the stringent test of disability under the law.

We prefer a proposal to limit judicial review to questions of law. However, there is another possibility. A few months ago, I appeared before the Senate Judiciary Committee and was asked if an "arbitrary and capricious" rule, then being considered for the Veterans Administration, would be a useful substitute. Certainly that rule, which restricts court juridiction to cases where the court found the agency decision to be arbitrary and capricious, would go in the direction we want to go, which is toward limiting court review to cases of statutory or constitutional question in which the courts must play the deciding role.

Earnings level for determining SGA

Now, I want to discuss two provisions in H.R. 3464 which the Administration strongly opposes. These are the increase in the SGA level for SSI beneficiaries and the addition of a 20 percent deduction for work expenses.

Earlier, I mentioned that the SSI and DI programs are tightly interwoven, and share the same definition of disability and the same process for the determination of disability. In fact, in implementing the SSI program SSA identified many potential SSI beneficiaries from its DI rolls; this process still provides SSA with leads for potential SSI beneficiaries. In most instances, those applying for SSI disability benefits simultaneously apply for social security disability benefits. Of the 2.2 million beneficiaries who receive SSI disability benefits nearly 800,000, or 37 percent also receive disability benefits under social security. We believe that the provision raising the SSI GSA level will weaken the important linkage that exists between SSI and social security.

Let me explain our concerns. This provision does not change the statutory definition of disability in either the SSI or the social security program. However, raising the SSI SGA level does in effect change the way in which the definition of disability is applied in SSI in determining whether a person who is working is disabled. This creates an undesirable situation. Since the definition of disability in both programs remains similar except for the SGA level, the same person who applies for both SSI and DI could be found not disabled for social security, disabled for SSI, engaging in SGA for social security, but, not engaging in SGA for SSI. This is obviously inappropriate.

This provision creates further anomalies. The SSI SGA level would be different for a single person than for a person with an eligible spouse.

Let me explain how this occurs in more detail. The provision raises the SSI SGA level (currently $280) to the point at which monthly earnings, after excluding the first $65, the cost of impairment-related work expenses, and one-half of the remaining earnings, equal the payment amount. Thus, based on the present SSI benefit of $208.20 for an individual, and $312.30 for an individual with an eligible spouse, the SGA level would be a minimum of about $481 a month for an individual, and about $689 for a person with an eligible spouse, as compared to the present $280 (even these SGA levels will be substantially higher if work expense exclusions are involved).

To illustrate the above, we would determine the SGA level for an individual earning $450 per month (assuming no impairment-related work expenses) by:

1. Subtracting $65 ($450 − $65 = $385).
2. Subtracting one-half the remainder ($385 ÷ 2 = $192.50).

Since this is less than the payment amount for an individual ($208.20), the individual is not engaging in SGA on the basis of earnings alone. The same procedure would apply in computing the SGA level for an individual with an eligible spouse, but using $312.20, the couple's rate, instead of $208.20.

Thus, a person without an eligible spouse would be found not disabled with earnings lower than another with an eligible spouse. The determination of disability would thereby be based on marital status, something which is totally irrelevant to a person's medical condition or ability to work.

We fully support the goals of promoting independence and self-sufficiency for the disabled. We also believe that providing fiscal and other incentives to encourage and assist them in realizing these goals is a proper purpose of the SSI and SSDI programs. However, this provision could result in providing cash payment to people earning $10,000 or more per year. We have grave reservations about the appropriateness of an income maintenance program like SSI providing SSI disability cash benefits to people with those earnings, even though they are severely handicapped. Under this provision, disabled SSI beneficiaries could be working fulltime at or above the Federal minimum wage and still be paid benefits.

We estimate that by fiscal year 1984 at least 63,000 people will be affected, at a cost of approximately $44 million. Additional Medicaid costs for the period 1980–1984 are estimated at $55 million to the Federal Government alone, with still higher total costs when States are considered.

There will also be a significant cost impact on the social security program. First, raising the SSI SGA level will certainly cause pressure to do the same in the SSDI program. If the SGA levels in H.R. 3464 were applied to the SSDI program, the long-range program cost would increase by at least .70 percent of taxable payroll, which would be equivalent to at least $7 billion in calendar year 1979.

Second, we know that there are people who are working and earning amounts in excess of the current SGA level of $280 a month, despite their impairments. Some do not apply for disability insurance because they are not sure if their impairments are severe enough for them to qualify, and because they cannot afford to reduce earnings below SGA through the 5-month waiting period required in the SSDI program. However, with the significantly higher SSI SGA level, people could "test" their eligibility for disability under SSI, many without suffering a drastic reduction in income. If eligible, they could subsequently reduce their earnings below the social security SGA level in order to qualify for the relatively higher social security benefits with no overall reduction in their income.

We estimate the increased costs to the DI program, while only $1 million in 1980, would be $101 million in 1984.

Twenty percent earned income exclusion

The 20 percent earned income disregard provision would add what we believe is an inappropriate earned income exclusion to those already in the law. The SSI program already takes work expenses into account by not reducing benefits for the first $65 of earnings. In addition, benefits are only reduced by one-half of the earnings above the $65.

The Administration proposal and H.R. 3464 recognize that the disabled may have extraordinary work expenses related to their impairment. For that reason, we favor disregarding such expenses in determining whether someone is disabled and in computing benefits for SSI. H.R. 3464 would go another step that we think is unwarranted. It would in effect add another exclusion for general work expenses to those already in the law and represents a liberalization that would result in individuals who are earning relatively large salaries becoming eligible for benefits.

We estimate that the number of individuals who would benefit from this provision—those newly eligible and those already on the rolls—would increase from approximately 31,000 in fiscal year 1980 to 94,000 in fiscal year 1984. Similarly, costs during the same period would increase from $2 million to approximately $29 million.

In addition to this cost impact, the 20 percent exclusion would also create an inequity in the treatment of earned income of the aged, and that of the disabled, since this provision does not apply to aged beneficiaries.

Closing remarks

That concludes the major points I wish to make about the legislation you are considering today. I have attached an appendix to my statement which outlines all of the changes we recommend in this legislation. In addition to the major items I have discussed, the appendix contains some amendments and some minor corrections which will add greatly to the ease of administering the disability reform provisions.

I am pleased to have watched disability reform legislation travel so far toward enactment in the space of the single year that I have been Commissioner. That it has is a tribute to the seriousness of purpose of this Congress with respect to making our social security and SSI programs more effective, more reasonable, and more responsive to human needs.

We must continue to refine the disability program—to make it more equitable and to assist those who want to return to work. The proposals in H.R. 3236 and H.R. 3464 are designed to do that.

The proposals I have discussed are part of the Administration's overall plan to improve the social security programs—not to change their basic role, but to bring them up to date, adjust them to new realities, eliminate inequities, and improve administration. We urge action on the legislation now.

I would be happy to respond to any questions you may have.

Attachment.

A-1.—DOLLAR COMPARISON OF BENEFIT CAPS

[Comparison of family benefits under various benefit cap proposals based on entitlement in January 1980[1]]

AIME	Present law	H R 2054[2]	H.R. 2854[3]	Gephardt amendment[4]	H.R. 3236[5]	Advisory council[6]
$135	$182.30	$121.50	$121.50	$121.50	$121.50	$121.50
$150	202.50	135.00	135.00	135.00	135.00	135.00
$300	313.70	225.00	240.00	240.00	240.00	270.00
$479	419.70	359.30	383.20	346.40	383.20	419.70
$500	437.90	375.00	400.00	355.10	400.00	437.90
$700	612.00	505.70	560.00	438.30	505.70	612.00
$887[7]	723.80	595.50	709.60	516.10	595.50	723.80
$900	729.30	601.70	720.00	521.50	601.70	729.30
$1,100	815.10	697.70	815.10	604.70	697.70	815.10
$1,300	888.50	762.30	888.50	660.70	762.30	888.50
$1,500	941.00	807.30	941.00	699.70	807.30	941.00
$1,700	993.50	852.30	993.50	738.70	852.30	993.50

[1] Based on final mid-session review assumptions

[2] Family benefits are limited to 75 percent of AIME or 150 percent of the PIA, whichever is lower (with a minimum guarantee of 100 percent of the PIA)

[3] Family benefits are limited to 80 percent of AIME or present law, whichever is lower (with a minimum guarantee of 100 percent of the PIA).

[4] Family benefits are limited to 80 percent of AIME or 130 percent of the PIA, whichever is lower (with a minimum guarantee of 100 percent of the PIA)

[5] Family benefits are limited to 80 percent of AIME or 150 percent of the PIA, whichever is lower (with a minimum guarantee of 100 percent of the PIA)

[6] Family benefits are limited to 90 percent of the highest five consecutive years of wage-indexed earnings or present law, whichever is lower. Note —While AIME's for the Advisory Council proposal are different than the career-average AIME used in the other proposals, the difference would depend on each individual's pattern of earnings Under wage indexing, little or no difference would occur for a regular worker with earnings increasing at the same rate as the average, and no difference is assumed

[7] AIME for worker with average earnings

A-2. PERCENTAGE COMPARISON OF BENEFIT CAPS

[Percentage variance from present law under various family benefit cap proposals based on entitlements in January 1980[1]]

AIME	Present law family benefit	In percent				
		H R. 2054[2]	H.R. 2854[3]	Gephardt amendment[4]	H.R. 3236[5]	Advisory council[6]
$135	$182.30	−33.4	−33.4	−33.4	−33.4	−33.4
$150	202.50	−33.3	−33.3	−33.3	−33.3	−33.3
$300	313.70	−28.3	−23.5	−23.5	−23.5	−13.9
$479	419.70	−14.4	−8.7	−17.5	−8.7	0
$500	437.90	−14.4	−8.7	−18.9	−8.7	0
$700	612.00	−17.4	−8.5	−28.4	−17.4	0
$887[7]	723.80	−17.7	−2.0	−28.7	−17.7	0
$900	729.30	−17.5	−1.3	−28.5	−17.5	0
$1,100	815.10	−14.4	0	−25.8	−14.4	0
$1,300	888.50	−14.2	0	−25.6	−14.2	0
$1,500	941.00	−14.2	0	−25.6	−14.2	0
$1,700	993.50	−14.2	0	−25.6	−14.2	0

[1] Based on final mid-session review assumptions.

[2] Family benefits are limited to 75 percent of AIME or 150 percent of the PIA, whichever is lower (with a minimum guarantee of 100 percent of the PIA).

[3] Family benefits are limited to 80 percent of AIME or present law, whichever is lower (with a minimum guarantee of 100 percent of the PIA).

[4] Family benefits are limited to 80 percent of AIME or 130 percent of the PIA, whichever is lower (with a minimum guarantee of 100 percent of the PIA).

[5] Family benefits are limited to 80 percent of AIME or 150 percent of the PIA, whichever is lower (with a minimum guarantee of 100 percent of the PIA).

[6] Family benefits are limited to 90 percent of the highest five consecutive years of wage-indexed earnings or present law, whichever is lower. Note.—While AIME's for the Advisory Council proposal are different than the career-average AIME used in the other proposals, the difference would depend on each individual's pattern of earnings. Under wage indexing, little or no difference would occur for a regular worker with earnings increasing at the same rate as the average, and no difference is assumed.

[7] AIME for worker with average earnings.

B. HEW-Proposed Changes; H.R. 3236, H.R. 3464

CHANGES THAT HEW PROPOSES IN H.R. 3236 AND H.R. 3464

I. Provisions of administration's bill, H.R. 2854—Disability Insurance Reform Act of 1979—That were not incorporated in H.R. 3236 or H.R. 3464 or were incorporated with significant changes

1. H.R. 2854 included a provision to limit judicial review of final decisions in the social security and SSI programs to questions of constitutionality and statutory interpretation. The substantial evidence rule has not worked out as intended. In many cases, district court judges examine the facts de novo and reverse the decision or remand the case.

An acceptable, but less desirable, alternative would be to restrict court jurisdiction to cases in which the Secretary's decision is found to be arbitrary and capricious.

2. Give HEW the authority to revise any State agency determination. At present, HEW can only reverse an allowance or an otherwise favorable decision. In the interest of fairness to applicants, HEW should have the authority to reverse denials as well as allowances.

3. The provision in H.R. 3236 which allows the deduction of impairment-related work expenses in the determination of substantial gainful activity should be amended to provide that the deduction applies even where the disabled person does not pay the cost of those expenses. If this is not done, there is the risk of treating differently similarly impaired people who are overcoming major obstacles to return to work. One would receive benefits; another would not. Also, this would bring the provision into line with the comparable provision in H.R. 3464.

4. Broaden the SGA demonstration project and experiment authority (now limited to work activity) in H.R. 3236.

To develop the most equitable and efficient mechanisms for the DI program, the authority should be broadened to encompass other areas of the DI program. Pilot studies carried out in limited time frames can be a cost-effective way to gain information about many progrm areas and should not be limited in scope.

5. The legislation should provide that SSI beneficiaries who successfully return to work receive a 3-year extension of Medicaid protection. This would match the 3-year Medicare extension that is being provided to DI beneficiaries.

II. Major changes

1. Modify the provision in H.R. 3236 requiring Federal preadjudicative review of a fixed percentage of State agency allowances to give the Secretary more flexibility.

Under the bill, this review would be phased in over 3 years, reaching a level of 65 percent in 1982. The mandated percentages may not be cost effective. They should be phased in over a longer period. This will provide the time and experience needed to report to the Congress on the results of the review at each level and whether the next higher level of review would be cost effective.

The legislation should provide that the preadjudicative review be phased in over 5 years beginning with the 15 percent review requirement in CY 1981, 35 percent review requirement in CY 1983, and reaching the 65 percent level in CY 1985.

2. Amend the childcare dropout provision in H.R. 3236.

The provision, as drafted, will apply when the worker has "principal care" of a child under age 6. The term is undefined, but finding "principal care" could require an investigation of what childcare activities a worker performed some years in the past.

The provision should be amended to use the term "child in care"—a term already defined and used to determine benefit entitlement for young spouses. If limited to situations where the child was living with the parent, and the parent had earnings in that year equal to (or less than) the amount needed to get four quarters of coverage, this change would satisfy the intent of the provision and would lessen administrative difficulties.

3. Delete the provision (contained in both H.R. 3236 and H.R. 3464) which provides that benefit payments could continue to a person in an approved rehabilitation program after he or she medically recovered from disability.

This provision violates the basic principles of both the SSI and social security disability insurance programs. It allows an individual who is not disabled to receive cash benefits. At a time when efforts are being made to streamline the program to reduce unnecessary costs and ineffective provisions, this proposal may be inappropriate.

4. Delete the provision in H.R. 3464 increasing the SGA earnings level.

Raising the SSI SGA level in effect establishes a different definition for SSI than for DI and would significantly increase costs of both programs. HEW believes the provision should be deleted.

5. Delete the provision in H.R. 3464 providing a 20 percent standardized work exclusion.

This duplicates the work expense exclusion implicit in current law, and permits payment to those with relatively high earnings.

6. Delete the presumptive disability section of this provision in H.R. 3464.

HEW believes 4 years is too long a time to presume a connection between present work stoppage and the earlier disability. Those who discontinue work for any reason could receive benefits for an unlimited time, (i.e., until a finding that the individual was not disabled) as the 3-month limitation on payments in current law would not apply under this provision. The provision in effect introduces a limited form of unemployment compensation.

III. Minor changes

To be furnished.

COST ESTIMATES FOR H.R. 3236 AS PASSED BY THE HOUSE OF REPRESENTATIVES AND WITH ADMINISTRATION'S PROPOSED CHANGES TO HOUSE-PASSED BILL

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

PROVISION a/	HOUSE BILL						ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL					
	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/	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						Fiscal year					
	1980	1981	1982	1983	1984		1980	1981	1982	1983	1984	
1. Limitation on total family benefits for disabled-worker families (section 2)--												
Benefit payments	-$ 38	-$146	-$263	-$392	-$525		-$ 38	-$146	-$263	-$392	-$525	
Administrative costs	c/	c/	c/	c/	c/		c/	c/	c/	c/	c/	
Total	-38	-146	-263	-392	-525	-.09	-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		- 12	- 42	- 81	-126	-176	
Administrative costs	c/	+ 1	+ 1	+ 1	+ 1		c/	c/	c/	c/	c/	
Total	-12	- 45	- 88	-138	-193	-.04	- 12	- 42	- 81	-126	-176	-.04
3. Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (section 5)--												
Benefit payments	+ 1	+ 2	+ 5	+ 9	+ 13		d/	+ 4	+10	+18	+26	
Administrative costs	c/	c/	c/	c/	c/		c/	c/	c/	c/	c/	
Total	+ 1	+ 2	+ 5	+ 9	+ 13	+.01	0	+ 4	+10	+18	+26	+.02
4. Federal review of State agency determinations (section 8)--												
Benefit payments	- 3	-20	-73	-133	-198		--	- 2	- 7	-19	-40	
Administrative costs	+ 7	+13	+16	+ 17	+ 17		--	+ 9	+12	+20	+24	
Total	+ 4	- 7	-57	-116	-181	-.06	--	+ 7	+ 5	+ 1	-16	-.02

PROVISION a/	HOUSE BILL						ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL					
	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/	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						Fiscal year					
	1980	1981	1982	1983	1984		1980	1981	1982	1983	1984	
5. More detailed notices specifying reasons for denial of disability claims (section 9)--												
Benefit payments	e/	e/	e/	e/	e/		e/	e/	e/	e/	e/	
Administrative costs	+ 13	+ 20	+ 21	+ 22	+ 23		--	+ 13	+ 18	+ 19	+ 20	
Total	+ 13	+ 20	+ 21	+ 22	+ 23	f/	--	+ 13	+ 18	+ 19	+ 20	f/
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)--												
Benefit payments	--	--	- 42	- 83	- 86			--	- 42	- 83	- 86	
Administrative costs	--	c/	c/	c/	c/		--	c/	c/	e/	c/	
Total	--	--	- 42	- 83	- 86	-.01	--	--	- 42	- 83	- 86	-.01
7. Payment for existing medical evidence (section 15)--												
Benefit payments	e/	e/	e/	e/	e/		e/	e/	e/	e/	e/	
Administrative costs	+ 17	+ 21	+ 22	+ 23	+ 24		+ 5	+ 21	+ 22	+ 23	+ 24	
Total	+ 17	+ 21	+ 22	+ 23	+ 24	f/	+ 5	+ 21	+ 22	+ 23	+ 24	f/
8. Periodic review of disability determinations (section 17)--*												
Benefit payments	- 2	- 25	- 60	-100	-160		--	- 2	- 26	- 65	-110	
Administrative costs	+ 34	+ 40	+ 42	+ 43	+ 45		+ 3	+ 13	+ 42	+ 43	+ 45	
Total	+ 32	+ 15	- 18	- 57	-115	-.03	+ 3	+ 11	+ 16	- 22	- 65	-.03

PROVISION a/	HOUSE BILL						ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL					
	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/	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						Fiscal year					
	1980	1981	1982	1983	1984		1980	1981	1982	1983	1984	
Totals												
Benefit payments	-$54	-$235	-$480	-$755	-$1,064		-$50	-$188	-$367	-$584	-$825	
Payments for costs of vocational rehabilitation services	--	--	- 42	- 83	- 86		--	--	- 42	- 83	- 86	
Administrative costs	+ 71	+ 95	+ 102	+ 106	+ 110		+ 8	+ 56	+ 94	+105	+113	
Total net effect on OASDI trust fund expenditures	+ 17	- 140	- 420	- 732	-1,040	-.21	- 42	- 132	-315	-562	-798	-.16

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. The total reduction does not equal the sum of the components because of rounding.

c/ Additional administrative expenses are less than $1,000,000.

d/ Less than $500,000.

e/ None.

f/ Less than 0.005 percent.

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

* SSA is developing a more active administrative program for reexamination of beneficiaries who are not permanently disabled. This may produce even greater savings than estimated for section 17.

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COST ESTIMATES FOR H.R. 3236 AS PASSED BY THE HOUSE OF REPRESENTATIVES AND WITH ADMINISTRATION'S PROPOSED CHANGES TO HOUSE-PASSED BILL

Estimated Effect on SSI, AFDC, Medicare, and Medicaid Expenditures, by Provision

(Pluses indicate cost, minuses indicate savings)

PROVISION	HOUSE BILL Estimated effect on SSI, AFDC, Medicare, and Medicaid expenditures in fiscal years 1980-1984 (in millions) Fiscal Year					ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL Estimated effect on SSI, AFDC, Medicare, and Medicaid expenditures in fiscal years 1980-1984 (in millions) Fiscal Year				
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
Limitation on total family benefits for disabled-worker families (section 2)--										
SSI program payments	a/	+$ 1	+$ 2	+$ 2	+$ 3	a/	+$ 1	+$ 2	+$ 2	+$ 3
AFDC program payments	+$ 3	+ 5	+ 8	+10	+12	+$ 3	+ 5	+ 8	+10	+12
General fund -- Total	+ 3	+ 6	+10	+12	+15	+ 3	+ 6	+10	+12	+15
Reduction in number of dropout years for younger disabled workers (section 3)--										
General fund--SSI program payments	+ 5	+10	+17	+26	+36	+ 5	+ 9	+15	+23	+32
Extension of Medicare coverage for 36 months for workers whose benefits are terminated because of SGA (section 6)--										
Medicare benefits b/	+ 5	+27	+57	+68	+76	+ 1	+14	+42	+68	+76
Eliminate requirement that months in Medicare waiting period be consecutive (section 7)--										
Medicare trust funds b/	+30	+45	+54	+60	+66	+10	+46	+53	+61	+68
Federal review of State agency allowances (section 8)--										
Medicare benefits c/	a/	a/	- 3	- 7	-14	--	a/	a/	- 3	-10
SSI program payments	- 5	-14	-23	-31	-40	--	- 1	- 4	-10	-23
SSI administrative costs	+ 3	+ 6	+ 7	+ 7	+ 8	--	+ 6	+ 7	+13	+17
General fund -- Total d/	- 2	- 8	-19	-31	-46	--	+ 5	+ 3	0	-16

COST ESTIMATES FOR H.R. 3464 AS PASSED BY THE HOUSE OF REPRESENTATIVES AND WITH ADMINISTRATION'S PROPOSED CHANGES TO HOUSE-PASSED BILL

Estimated Effect on SSI Expenditures in Fiscal Years 1980-1984 by Provision (In millions)
(Pluses indicate cost, minuses indicate savings)

PROVISION	HOUSE BILL					ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL				
	Fiscal Year					Fiscal Year				
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
1. Earnings level for determining SGA (higher SGA level, exclusion of $65, and 50 percent of remaining earnings a/)										
Program costs	+$1	+$14	+$22	+$31	+$41	Delete provision				
Administrative costs	+ 2	+ 4	+ 5	+ 5	+ 6					
Total	+ 3	+ 18	+ 27	+ 36	+ 47					
2. Earned-income disregards (exclusion of $65, 20 percent of gross, and 50 percent of remaining earnings a/)										
Program costs	+ 2	+ 11	+ 13	+ 14	+ 21	Delete provision				
Administrative costs	+ 1	+ 2	+ 2	+ 2	+ 3					
Total	+ 3	+ 13	+ 15	+ 16	+ 24					
3. Impairment-related work expenses b/										
Program costs	c/	+ 5	+ 8	+ 10	+ 11	c/	+$5	+$8	+$10	+$11
Administrative costs	c/	c/	c/	c/	c/	c/	c/	c/	c/	c/
Total	c/	+ 5	+ 8	+ 10	+ 11	c/	+ 5	+ 8	+ 10	+ 11
4. Extend trial work period (automatic reentitlement any time up to 1 year after benefits stop due to SGA)										
Program costs	c/	c/	c/	c/	c/	c/	c/	c/	c/	c/
Administrative costs	c/	c/	c/	c/	c/	c/	c/	c/	c/	c/
Total	c/	c/	c/	c/	c/	c/	c/	c/	c/	c/
5. Terminate parental deeming after age 18										
Program costs	c/	+ 1	+ 2	+ 3	+ 3	c/	+ 1	+ 2	+ 3	+ 3
Administrative costs	c/	c/	c/	c/	c/	c/	c/	c/	c/	c/
Total	c/	+ 1	+ 2	+ 3	+ 3	c/	+ 1	+ 2	+ 3	+ 3

C-3. COST ESTIMATES FOR H.R. 3464 - SSI (3 of 3)

PROVISION	HOUSE BILL					ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL				
	Fiscal Year					Fiscal Year				
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
TOTALS										
Effect on SSI expenditures	+$10	+$43	+$59	+$72	+$92	--	+$9	+$14	+$17	+$18
Effect on OASDI expenditures	+ 1	+ 3	+ 39	+ 72	+101	--	--	--	--	--
Effect on Medicare expenditures	c/	c/	+ 15	+ 30	+ 45	--	--	--	--	--
Effect on Medicaid expenditures	c/	+ 6	+ 11	+ 16	+ 22	c/	c/	+ 2	+ 4	+ 5
Total Net Effect of H.R. 3464	+$11	+$52	+$124	+$190	+$260	--	+$9	+$16	+$21	+$23

---

a/ Costs shown exclusive of impairment-related work expense exclusion.

b/ Effect of interaction of provision with higher SGA and 20 percent earned-income exclusions; figures are additive.

c/ Less than $1 million.

d/ Long-range cost 0.05 percent of taxable payroll.

e/ Federal cost only.

f/ House bill costs assume enactment of SGA and earned-income disregard provision. Costs are eliminated if these provisions deleted.

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PROVISION	HOUSE BILL					ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL				
	Fiscal Year					Fiscal Year				
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
6. Continued payments to recovered recipients in VR program								Delete provision		
Program costs	c/	c/	c/	c/	c/					
Administrative costs	c/	c/	c/	c/	c/					
Total	c/	c/	c/	c/	c/					
7. Detailed notices to claimants										
Program costs	--	--	--	--	--	--	--	--	--	--
Administrative costs	+$4	+$6	+$ 7	+$ 7	+$ 7	--	+$3	+$4	+$4	+$4
Total	+ 4	+ 6	+ 7	+ 7	+ 7	--	+ 3	+ 4	+ 4	+ 4
8. Medicaid (extend eligibility for 3 years after benefits stop) e/			No provision							
Program costs						c/	c/	+ 2	+ 4	+ 5
Administrative costs						--	--	--	--	--
Total						c/	c/	+ 2	+ 4	+ 5
Cost Impact on Other Programs										
1. Social security--OASDI d/								f/		
Program costs	c/	+ 2	+ 38	+ 71	+100					
Administrative costs	+ 1	+ 1	+ 1	+ 1	+ 1					
Total	+ 1	+ 3	+ 39	+ 72	+101					
2. Medicare (2-year waiting period before eligible)								f/		
Program costs	c/	c/	+ 15	+ 30	+ 45					
Administrative costs	--	--	--	--	--					
Total	c/	c/	+ 15	+ 30	+ 45					
3. Medicaid								f/		
Program costs	c/	+ 6	+ 11	+ 16	+ 22					
Administrative costs	--	--	--	--	--					
Total	c/	+ 6	+ 11	+ 16	+ 22					

Summary Table

COST ESTIMATES FOR H.R. 3236 AND H.R. 3464 AS PASSED BY THE HOUSE OF REPRESENTATIVES AND WITH ADMINISTRATION'S PROPOSED CHANGES TO HOUSE-PASSED BILL

(In Millions)

	HOUSE BILL					ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL				
	Fiscal Year					Fiscal Year				
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
H.R. 3236										
Estimated effect on OASDI expenditures 1/	+$17	-$140	-$420	-$732	-$1,040	-$42	-$132	-$315	-$562	-$798
Estimated effect on SSI, AFDC, Medicare, and Medicaid	+ 59	+ 89	+ 109	+ 100	+ 83	+ 21	+ 86	+ 135	+ 154	+ 145
H.R. 3464										
Estimated effect on SSI	+ 10	+ 43	+ 59	+ 72	+ 92	--	+ 9	+ 14	+ 17	+ 18
Estimated effect on OASDI	+ 1	+ 3	+ 39	+ 72	+ 101					
Estimated effect on Medicare and Medicaid	0	+ 6	+ 26	+ 46	+ 67	0	0	+ 2	+ 4	+ 5
Total Net Effect on Federal Government Expenditures	+ 87	+ 1	- 187	- 442	- 697	- 21	- 37	- 164	- 387	- 630

1/ The long-range OASDI savings of the House bill is .21 percent of taxable payroll. The long-range savings of the bill as modified by the Administration's recommendations is .16 percent of taxable payroll.

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PROVISION	HOUSE BILL					ADMINISTRATION'S PROPOSED CHANGES TO HOUSE BILL				
	Estimated effect on SSI, AFDC, Medicare, and Medicaid expenditures in fiscal years 1980-1984 (in millions)					Estimated effect on SSI, AFDC, Medicare, and Medicaid expenditures in fiscal years 1980-1984 (in millions)				
	Fiscal Year					Fiscal Year				
	1980	1981	1982	1983	1984	1980	1981	1982	1983	1984
6. Periodic review of disability determinations (section 17)--*										
Medicare benefits e/	a/	a/	-$ 7	-$18	-$37	—	a/	a/	-$ 7	-$19
SSI program payments	-$1	-$12	-26	-41	-52	--	-$ 1	-$11	-27	-36
SSI administrative costs	+19	+21	+23	+24	+25	+$2	+ 7	+23	+24	+25
General fund — Total d/	+18	+ 9	-10	-35	-64	+2	+ 6	+12	-10	-30
Total additional benefit payments from Medicare trust fund	+35	+72	+101	+103	+91	+11	+60	+95	+119	+115
Total effect on expenditures from the general fund										
SSI	+21	+12	+ 0	-13	-20	+ 7	+21	+32	+25	+18
AFDC	+ 3	+ 5	+ 8	+10	+12	+ 3	+ 5	+ 8	+10	+12
Total	+24	+17	+ 8	- 3	- 8	+10	+26	+40	+35	+30
Total effect on expenditures from the OASDI trust funds	+17	-140	-420	-732	-1,040	-42	-132	-315	-562	-798
Total net effect in Federal Government expenditures	+76	-51	-311	-632	-957	-21	-46	-180	-408	-653

a/ Less than $500,000.

b/ Long-range average cost to the hospital insurance (HI) program over the next 25 years is less than 0.005 percent of taxable payroll.

c/ Long-range HI savings is 0.01 percent of taxable payroll.

d/ There will be relatively small changes in Medicaid payments.

e/ Long-range HI savings is less than 0.005 percent of taxable payroll.

* SSA is developing a more active administrative program for reexamination of beneficiaries who are not permanently disabled. This may produce even greater savings than estimated for section 17.

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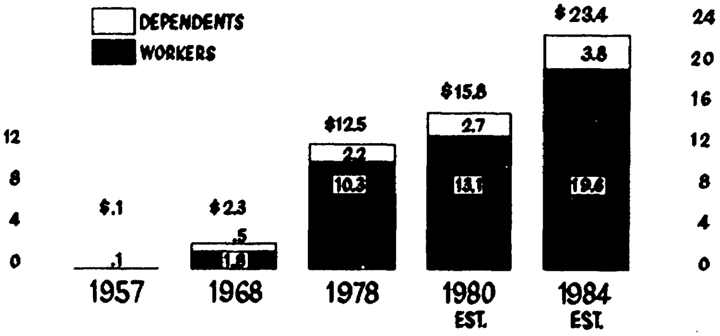
GROWTH OF THE DISABILITY INSURANCE PROGRAM

BENEFIT PAYMENTS UNDER PRESENT LAW
(IN BILLIONS)
MID-SESSION REVIEW ASSUMPTIONS



MAJOR PROBLEMS WITH EXISTING PROGRAMS

- EXCESSIVE REPLACEMENT RATES
- DISINCENTIVES TO RETURN TO WORK
- CONFUSING AND CUMBERSOME ADMINISTRATIVE PROCESS

DISABILITY ADJUDICATION PROCESS

IN CALENDAR YEAR 1978

LEVEL OF DECISION	NUMBER OF DECISIONS	ALLOWANCES	DENIALS	REVERSAL RATE
INITIAL DECISIONS[1]	1,190,000	357,000	833,000 DENIAL RATE 70%[2]	
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	1,600[3]	3,300	43%[4]

1) INCLUDES ALL TITLE II DISABILITY DECISIONS (DISABLED WORKER, DISABLED WIDOW(ER)S, AND ADULTS DISABLED IN CHILDHOOD).

2) INCLUDES DENIALS FOR OTHER THAN LACK OF SEVERITY.

3) INCLUDES 1,260 REMANDS AND 340 COURT ALLOWANCES.

4) INCLUDES REMANDS FROM FEDERAL COURTS.

PROVISIONS TO REMEDY PROBLEMS

- BENEFIT CAP AND DROPOUT YEARS

- WORK INCENTIVES

- ADMINISTRATIVE IMPROVEMENTS

WORK INCENTIVES

- DEDUCTION OF IMPAIRMENT-RELATED WORK EXPENSES
- AUTOMATIC REENTITLEMENT TO BENEFITS FOR 1 YEAR
- EXTENSION OF MEDICARE & MEDICAID FOR 3 YEARS
- ELIMINATION OF SECOND MEDICARE WAITING PERIOD
- TRIAL WORK PERIOD FOR WIDOWS AND WIDOWERS

ADMINISTRATIVE IMPROVEMENTS

- PERFORMANCE STANDARDS THROUGH REGULATIONS
- PRE-ADJUDICATIVE REVIEW
- PERIODIC REVIEW OF DISABILITY BENEFICIARIES
- EXPLORATION OF USE OF FACE-TO-FACE INTERVIEW
- SSA REPRESENTATIVE AT HEARING LEVEL
- SSA REVIEW BOARD
- LIMITATION OF JUDICIAL REVIEW

COMPARISON OF FAMILY BENEFITS UNDER VARIOUS BENEFIT CAP PROPOSALS

(JANUARY 1980)

AIME	PRESENT LAW	H.R. 2054 (75/150)	H.R. 2854 (80)	GEPHARDT AMENDMENT (80/130)	H.R. 3236 (80/150)	ADVISORY COUNCIL[1] (90)
$ 135	$182.30	$121.50	$121.50	$121.50	$121.50	$121.50
479	419.70	359.30	383.20	346.40	383.20	419.70
887	723.80	595.50	709.60	516.10	595.50	723.80
1,700	993.50	852.30	993.50	738.70	852.30	993.50

[1] *AIME IS HIGHEST FIVE CONSECUTIVE YEARS OF WAGE-INDEXED EARNINGS UNDER THIS PROPOSAL.*

PERCENTAGE VARIANCE FROM PRESENT LAW UNDER VARIOUS BENEFIT CAP PROPOSALS

(JANUARY 1980)

AIME	PRESENT LAW BENEFIT	H.R. 2054 (75/150)	H.R. 2854 (80)	GEPHARDT AMENDMENT (80/130)	H.R. 3236 (80/150)	ADVISORY COUNCIL[1] (90)
$ 135	$182.30	- 33.4%	- 33.4 %	- 33.4 %	- 33.4 %	- 33.4 %
479	419.70	- 14.4	- 8.7	- 17.5	- 8.7	0.0
887	723.80	- 17.7	- 2.0	- 28.7	- 17.7	0.0
1,700	993.50	- 14.2	0.0	- 25.6	- 14.2	0.0

[1] **AIME** is highest five consecutive years of wage-indexed earnings under this proposal.

SAVINGS UNDER VARIOUS BENEFIT CAP PROPOSALS

(IN MILLIONS)

	HR. 2054 (75/150)	HR 2854 (80)	GEPHARDT AMENDMENT (80/130)	H.R. 3236 (80/150)	ADVISORY COUNCIL (90)
FIRST YEAR	$ 40	$ 13	$ 69	$ 38	$ 2
AIME ABOVE $530	30	4	59	29	*
AIME UP TO $530	10	9	10	9	*
FIRST 5 YEARS	1,449	468	2,464	1,364	50
AIME ABOVE $530	1,073	161	2,101	1,057	*
AIME UP TO $530	376	307	363	307	*

*NEARLY ALL THE SAVINGS WOULD COME FROM FAMILIES WITH AIME UP TO $530

MAJOR SSI PROVISIONS

- SUPPORT
  - DEDUCTION OF IMPAIRMENT-RELATED WORK EXPENSES
  - EXTENSION OF MEDICAID FOR 3 YEARS
- OPPOSE
  - INCREASED SGA LEVEL
  - 20% WORK EXPENSE DISREGARD

COST ASPECTS OF H.R.3236 AND H.R.3464

(In Millions)

	House-Passed Bills		Administration's Proposed Changes	
	FY 1980	FY 1984	FY 1980	FY 1984
H.R.3236				
• Estimated effect on OASDI	+$17	-$1,040	-$42	-$798
• Estimated effect on other programs 1/	+59	+83	+21	+145
H.R.3464				
• Estimated effect on OASDI	+1	+101	0	0
• Estimated effect on other programs 1/	+10	+159	0	+23
Total Net Effect on Federal Government Expenditures	+87	-697	-21	-630

1/ SSI, AFDC, Medicare, and Medicaid

The CHAIRMAN. Senator Pepper is here, and I will call you as the next witness. If you just want to get your statement made for the record, you can make it right now, but you might prefer to wait until the other Senators come back. If so, I will go vote and then come back.

Mr. PEPPER. Mr. Chairman, you will be back in 5 minutes or so?

The CHAIRMAN. We are voting in the Senate right now, and if it is just the same, I will go and vote and come right back.

Mr. PEPPER. Fine.

The CHAIRMAN. We will recess, and we will be back as soon as the vote is over.

[Recess.]

The CHAIRMAN. We are very happy to welcome you back, Senator Pepper, and Representative Pepper as well. We are glad to have you over here, and we will be glad to have your views.

STATEMENT OF HON. CLAUDE PEPPER, U.S. REPRESENTATIVE FROM FLORIDA

Mr. PEPPER. Thank you, Mr. Chairman. It brings back many memories for me to come back here, and to find you still here, as I have known all along that you have been, continuing to do a great job for the country. I am delighted to be here today before your committee.

I am pleased to note also that you have two immediate past colleagues of mine from the House here, Mr. Heinz and Mr. Baucus. I am pleased to be here with all of you.

Mr. Chairman, I appreciate your giving me the privilege of making a brief statement this afternoon. First, I have a prepared statement which I would like to submit for the record, and then I will summarize it in my remarks.

The CHAIRMAN. Your statement will be printed in full in the record.

Mr. PEPPER. I strongly opposed this bill in the House, Mr. Chairman, because I thought it was wrong. This bill is designed to save over a period of 5 years, according to the House report which I have here before me, $1.8 billion.

That is not a bill that might be coming out of your committee to tax the people who maybe do not pay quite enough taxes at a time when we need money in the Treasury. This is, in substance, taxing the crippled people of this country. I know what your whole life has been, and your father ahead of you, and your concern for the people that are in the ring of need. I just felt, as I said in the House, we were reaching into an area where we ought not to go in order to try to save some money for our distressed budget.

I want to save money in any way I can, but I believe there are a lot of people in this country that are better able to take the cut, who are better able to pay that $1.8 billion in a period of 5 years than these cripped people are.

There are some falacies, Mr. Chairman, that I think are involved in the assumptions that are presented to your committee and by the same authorities to the House committees. In the first place, the people who get on these rolls are adjudicated by a proper tribunal to be totally and permanently disabled. They are not just people who become temporarily disabled.

I just happened to notice, as I was standing here a minute ago, a chart presented by the distinguished Commissioner of Social Security. There are 1,190,000 people who evidently apply to get on the disability rolls, I assume, every year. This is for the year 1978. I noted that out of the number of allowances by the authorities that adjudicate administratively the eligibility, 357,000 are allowed, and 833,000 are disallowed. Then I took all the allowances, either by reconsideration or other hearings, or appeals, or the Federal courts, and they all add up together to 449,900.

Mr. Chairman, this is out of a total of applicants of 1,190,000. This means that 38 percent of the people who apply are accepted and made eligible for the rolls; or, to turn it around, 62 percent who apply are denied in the processes of determination of their eligibility. So almost two out of three of the people who apply to get on the disability rolls are turned down by appropriate authority.

The next thing is that it is assumed, and it was assumed in the House, and great emphasis was put on this as the debate will show in the House, and the report will reveal, on giving these people incentives to get back to salary-earnings jobs on the payrolls of private business enterprises, and the like. I say they are forgetting the premise. The premise is that they were already adjudicated to be permanently disabled, evidently by procedures that were pretty strict indicating that two out of three were turned down.

They are going on the assumption, apparently, that these people were never properly adjudicated to be totally and permanently disabled. So unless the adjudicating process is totally unreliable, it seems to me that they go on a false assumption. They assume apparently that these people are like people who go to the hospital, and most of them get out cured, apparently, or they improve in a little bit, and they can go back to work.

When I was here in the Senate, I remember that it was along about that time that I was concerned about the disabled. A young man, for example, just 23 years old, just married, just starting a family, and he gets his back broken in an automobile accident. I was troubled about that man's future, and so were you and others. Finally, we provided.

However, as I recall it, you have to wait 6 months before you can get on the rolls no matter how badly or how totally and permanently disabled you are. So you wait for half a year without income. You go through a severe adjudicatory process, which almost generally rejects two out of three applicants, and you get the rolls. Now the House comes along and says to the country: "Let's get these fellows back to work. Get these totally and permanently disabled people back to work." It would seem to me that they have forgotten how they got on the payroll.

We have people here today, galantly in this room, who are disabled people. It is virtually impossible to return to work after you have a total and permanent disability.

The next thing is, I feel a sense of responsibility as a Member of this Congress to the people of this country who are the recipients of social security not to tamper with that program. When they have their money in the bank, and they see that fellow finagling with that money, they begin to lose their confidence in that bank. Here we are asked to go back and revise and rewrite a program that has been in existence at least 20 years.

Already people are concerned about the integrity of the social security. They are already besieged by false prophets who are telling the older people to go and make some other arrangements, if you can, about your future. You cannot rely on the social security.

You know that we, in Congress, will never allow the social security program not to perform the obligations that it is supposed to discharge. But at the same time when we tamper with it, when we go back and reduce the benefits that have previously been provided, especially at a time when inflation is higher than it has been in a long time, and when what they are getting is worth less in purchasing power, we severely compromise the integrity of the program.

I heard a man say today that in the last few years the dollar has depreciated 47 percent, or something like that. I am sure you all have the exact figures here.

We are talking about giving an incentive to go back to work to totally and permanently disabled people. We are talking about saving $1.8 billion over 5 years from the crippled people of the country, who are having, on the stipend that they are receiving, to meet the highest costs that they have had to meet at any time since they have been on that program.

Another argument that they emphasized in the House was that the trust fund is unable to continue to bear this burden. On the contrary, according to the report of the House committee, the trust fund is expected to grow from 31 percent of outlays in fiscal 1979 to 56 percent in fiscal 1984. Even the committee report concedes that the trust fund will more than quadruple from its present level at $4.3 billion to almost $22 billion in 1983. So I don't see much of a crisis there in the trust fund. This particular part of the trust fund is in good condition, and the prospect is that it will be stronger than it is today.

Another thing is that the cuts have the effect of bearing most heavily upon the poorest people. Of course, these are the very people who have the greatest difficulty in meeting the cost of living with prices as they are today.

May I speak of one group that I am professionally associated with, and incidentally personally involved, and that is the elderly.

I have here the figures that 30 percent of the persons affected by this legislation are 60 years of age or over. So you are not only talking about men and women in the prime of life who must rise to the exigency of the present inflationary condition, but you are talking about elderly people. The average age of the people covered by the total social security disability program is 55 years of age. So you are dealing with older people very much.

The last thing is that I would think that it would not be desirable for us to approve this legislation in view of what I believe are those justifiable objections to its passage. So, Mr. Chairman, I submit for their worth these observations to you and your distinguished committee.

Thank you very much.

The CHAIRMAN. Thank you very much, Senator Pepper. I will see that this is considered by the full committee.

I will have to call a brief recess now, and I will try to come back just as soon as I can.

Mr. PEPPER. I have finished my statement, Mr. Chairman, and I want to thank you very much.

[The prepared statement of Mr. Pepper follows:]

TESTIMONY OF REPRESENTATIVE CLAUDE PEPPER, CHAIRMAN, HOUSE SELECT COMMITTEE ON AGING

Mr. Chairman, thank you for the opportunity to appear before your distinguished committee to express my concern over H.R 3236, the Disability Insurance Amendments of 1979. As a former member of this eminent body, I come before you today to ask you to oppose a grave danger to the very foundation of economic security for America's aged, the Social Security System.

To those of us who were in Congress 45 years ago when the Social Security system was in its infancy and have seen it evolve into an ironclad compact that has served America well for three generations, this bill is a severe disappointment. By proposing to slash benefits for the sake of purported fiscal expediency, Congress would be opening a Pandora's Box that will compromise the integrity of the Social Security system. Perhaps the proponents of this measure feel that the long term soundness of the program will be enhanced by these periodic attempts to bleed it to death. I cannot help but believe that the sharp reduction in the level of Social Security protection will make the over 110 current contributors to the program and the 35 million current beneficiaries alarmed about the government's intention to honor its commitments to them. Unfortunately, H.R. 3236 goes backward in America's commitment to its aging and handicapped.

Of particular concern to millions of elderly and disabled persons are the so-called "benefits cap" and "drop out" provisions of the bill as passed by the House. Under Section 2, beneficiaries would be limited to a maximum amount of total benefits: 80 per cent of the worker's average lifetime monthly earnings prior to his disability, or 150 per cent of the primary insurance amount, whichever is lower. Section 3 of the bill proposes to eliminate or reduce the number of low earnings or no earnings years that a disabled worker could "drop out" or disregard for the purpose of computing benefits.

Mr. Chairman, 30 per cent of the persons affected by this legislation are 60 years of age and over, and the average age of the people who are covered by Social Security Disability Insurance is almost 56. A not insignificant share of the brunt of the proposed cutbacks will be borne by the elderly.

The report of the Committee on Ways and Means specifies the amount to be saved in the next 5 years, 1980 through 1984, as $1.82 billion.

Now, Mr. Chairman, from whom is that $1.82 billion to be saved? From the crippled people of this country. Are we so destitute in America, are we so hard pressed that we have to turn to the cripple as the source of the saving of revenue for the next five years? Is this the leakage that is causing concern to our fiscal structure, the amount we are paying the handicapped of America?

It is not easy to fully comprehend the devastating impact of this proposal on a person who already must cope with the prospect of a lifetime disability. Former HEW Secretary Wilbur Cohen, who will later testify before this Committee, could not be more correct when he characterizes this bill as "retrogressive, harsh, and unfortunate legislation."

The intent of the bill, nonetheless, appears to be quite clear. The report of the Ways and Means Committee defends the benefits cap and drop-out provisions in terms of "the need for work incentives." It would seem that the supporters of these two provisions do not believe that Disability Insurance 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 eleven 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 extravagence by lowering benefit levels to the point where these "freeloaders" will have an incentive to return to work.

But disability benefits are hardly lavish—the average monthly payment is only $327.66. It is to take leave of common sense to suggest that a sum of eighty dollars 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. We are told that if we enact this into law, we can go home and tell our constituents how we are helping them fight the battle against inflation by paring down the Federal budget. Mr. Chairman, it is incomprehensible to me that Congress can find no other place in a half-trillion dollar budget other than the pockets of cripples and their dependents in order to effect cutbacks. 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.

The tragic irony is that the trust fund is in no danger of bankruptcy at all. According to the Congressional Budget Office and the latest trustee's report, the Disability Insurance trust fund is expected to grow from 31 per cent of outlays in FY 1979 to 56 per cent in FY 1984. Even the Committee report conceeds that the trust fund will more than quadruple from its current level at $4.372 billion to almost $22 billion in FY 1983.

Whatever the intent of the Bill, its effects cannot be mistaken. I quote from the language of the Committee report: "The 80 per cent 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.

I just hope that my good friends in the Senate will not be associated in an endeavor that has that purpose. It is commendable that my distinguished colleagues on the House Ways and Means Committee want to save money, but goodness knows, are there not other places where we could save a comparable amount without taking it from the aged and the disabled of America?

For those doomed to live out the rest of their lives with a crippling disability, the prospect of supporting a family is a grim and frightening one. By definition, they are unable to engage in substantial and gainful employment. So all this coercion does is to reduce their standard of living, not only for the disabled person but 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 urge this Committee not to adopt it.

The CHAIRMAN. We will call a recess.

[Recess.]

Senator DOLE. I think that I can start the hearing. We have had all these votes, and I want to apologize to the witnesses who have been waiting, Mr. Schloss, Ms. Boggs, and Mr. Verville.

I will submit a couple of questions, for the record, to Commissioner Ross on whether or not the administration favors eliminating the 5-month waiting period for the terminally ill as advocated in S. 1203, or if not would the administration consider shortening the waiting period to possibly 2 to 3 months. We will submit those questions to the Commissioner.

Mr. VERVILLE. Would you like us to start, Senator?

Senator DOLE. In any order that you desire.

Mr. VERVILLE. I will start.

STATEMENT OF RICHARD VERVILLE, ESQ., NATIONAL EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN AND ADULTS

Mr. VERVILLE. Taking Senator Long's admonition, I will say that I will focus on SSI only, and try to be very brief, and then my two colleagues will talk about disability insurance.

Not taking his admonition seriously, I would like to say that we commend you for introducing S. 591. Our basic purpose for being here with regard to SSI is to say that all the organizations we are testifying on behalf of support S. 591, and would urge the Finance Committee to speedily report it out, and the Senate to pass it.

Just very briefly, a couple of comments on it. There are three major parts to it, it seems to me. The first is the effect on the benefit level. Unlike the Finance Committee's bill of last year, S. 591 would allow a person with a disability to retain earnings up to the break-even point. The limits in S. 591, which are that you have to have a disability that meets the medical listings or their equivalent, and that you have to be in the system already would, I think, substantially eliminate any of the cost implications that have been suggested by the Social Security Administration.

There were suggestions about H.R. 3464 that it would cost between a half billion and $7 billion. S. 591, in my opinion, would cost very little at all, at least with respect to the benefits, because you are not bringing in new eligibles in the system. You are not changing the eligibility, you are only changing the amount that can be earned for someone in order for that someone to return to work and exit the system. Therefore, the people who might come in on SSI, and through some tortuous route that has been suggested get on DI and, therefore, boost the DI costs, would not be a factor.

Also, it is not changing the definition of SGA for purposes of disability insurance. So it would not have that cost.

We think that there might be some savings because people who otherwise might not earn at all, or earn under the $280, would earn above that limit, and as a result of the tax rate in SSI would have their benefits reduced from what they otherwise would be, had they not earned at that level.

The other major part of S. 591 is the extension of title 19 and title 20 coverage for individuals who need those services in order to continue employment, and who could not otherwise pay for those services. We would support those provisions, and only suggest that the 3-year limitation on the medicaid coverage suggested by the administration, we think, is not appropriate, and we would prefer the provisions in S. 591, which allow the Secretary to determine when that individual needs to retain the medicaid eligibility in order to get the services that allow that person to be employed.

We would also suggest that S. 603, while very much like S. 591, in some respects more limited, is in a few instances an improvement because it would not impose the same eligibility tests that one would have to meet if one were on SSI, which S. 591 would. There would be some asset tests and possibly some unearned income tests that individuals would not have to meet under S. 603. They would just have to meet the medical indigency tests that are in those State plans that have medical indigency programs.

We would support, as we would all other provisions in S. 591, the work-related expense provision with just two caveats. We would hope that the work-related expenses could be applied not only with respect to determining eligibility, that is, with respect to determining whether one has met the SGA, but also with respect to the benefit calculation, which it is my understanding is the way the work expenses would apply under SSI to the aged and the blind.

One other very minor matter on work-related expenses, in the H.R. 3464 bill, drugs which might be necessary to control a disabling condition, like epilepsy, would be a work-related expense, a special one, whereas under S. 591 they would not. We would suggest that that rather technical provision be included in S. 591.

Thank you. I turn to my colleague, Mr. Schloss, first, and then Mrs. Boggs.

STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR, GOVERNMENTAL RELATIONS OFFICE, AMERICAN FOUNDATION FOR THE BLIND

Mr. SCHLOSS. First, Mr. Chairman, I would like to urge the committee to act favorably and promptly on S. 591, and to delay marking up H.R. 3236, the disability insurance amendments of 1979.

As you have gathered from other witnesses, the bill not only is controversial, it is punitive in certain of its provisions. We would urge the committee to wait until it has the report of the Advisory Council on Social Security to use during its deliberations, and also that it consider H.R. 3236 in the context of other changes in social security financing, which may be made later this year or sometime during 1980.

Our principal objections to H.R. 3236 are contained in two sections; section 2, which would put a lower ceiling on family benefits for the families of disabled workers, and section 3, which would reduce the dropout years for middle aged and younger workers.

We feel that these two provisions have the very simple, no matter how they are otherwise cloaked, purpose of cutting benefits for disabled workers and their families. I think we have to keep in mind that the Social Security Amendments of 1977, which became effective for disability insurance benefits on January 1, 1979, already resulted in a cut in benefits for those who became disabled since January 1 of this year.

H.R. 3236, sections 2 and 3, would further cut those benefits on January 1, 1980, for those who become disabled and eligible after that date.

With regard to the question of work incentive, that was the primary argument used in the House report, and in the debate on the House floor by the proponents of the bill. In fact, if we look at the existing caseload of disability insurance beneficiaries, of the close to 2.9 million beneficiaries, only 10 percent have any earnings at all. So it is a very severely disabled group which has a very low potential for vocational rehabilitation, and it is very unlikely that work incentive can be stimulated by cutting benefits. We have no doubt that future beneficiaries, who would be affected by sections 2 and 3 of H.R. 3236, would have the same characteristics as those currently on the rolls.

With regard to statistics on age, I would like to say in view of the questions asked of earlier witnesses, that the median age of those currently on the rolls is 56. The median age of new people coming on the rolls is 56. Basically, with the exception of current blind beneficiaries, it is an older age group. Only 18 percent of those currently on the rolls are under 45 and, unfortunately, 66.66 percent of the blind persons currently on the rolls are under age 45.

So the combined provisions of sections 2 and 3 would put a double penalty on new beneficiaries who are very likely to have the same characteristics as those already on the rolls.

These two sections would particularly adversely affect younger workers, women who have had intermittent service in the work force, minorities, and Vietnam era veterans. Perhaps the ultimate disincentive for those who have gone to work, having been on the rolls, and then having to go back on the rolls after January 1, 1980, is that they would wind up with substantially lower benefits as a result of sections 2 and 3.

I will turn it over to my colleague, Dr. Boggs.

STATEMENT OF ELIZABETH M. BOGGS, PH. D, MEMBER, NATIONAL GOVERNMENTAL AFFAIRS COMMITTEE, ASSOCIATION FOR RETARDED CITIZENS

Ms. BOGGS. Thank you.

Let me proceed further on the issue of the disability insurance. As we said in our testimony, we are in favor of some of the provisions, but we are very much concerned about the further limitation of benefits. We wish to underline what Senator Pepper said.

There is no crisis in the disability trust fund at the moment, which would require percipitate action on the part of this committee with respect to the disability insurance issue this year, and we believe that you can afford to carry this bill over until you have a chance to hear from the advisory council on social security.

We believe that they have examined this issue with a great deal of care, and that their recommendations will be much more tailored to the problem that people seem to think exists.

It seems that the solution offered in the House, the combination of reducing the dropout years, and limiting the maximum family benefits, particularly in the middle and higher ranges, is a meatax approach which penalizes future beneficiaries at the same time that it attempts to eliminate a few anomalies in the system.

I tried to think of a homely analogy, and I thought of the person who goes into a store to buy a suit of clothes off the rack, and tries them on and discovers that the sleeves come down to his knuckles, and when he looks, he realizes that the reason for this is that the shoulders are too broad. But the tailor says:

> I don't want to get into the business of opening up those seams at the shoulders. We will just cut the cuffs off. Now that you have pointed out to me that these sleeves are too long, I will cut the cuff off everybody else's suit that comes in here, regardless of whether the suit fits him or not.

That is about the way it seems to work.

We believe that it can be done better, and should be done better, but that there is no time in the remainder of this year's session.

In particular, we are concerned about the aggravation of inequities between survivors' benefits and dependents' benefits under disability insurance. The House tried to assure us that they don't intend to tinker with survivors' benefits, but if they don't intend to tinker with them, the inequities are being made larger between those two groups. If I have time, I will give you an example.

Let me go to the point of the public perceptions of the social security system. The Social Security Administration, and Commissioner Ross are quite properly concerned that younger workers do not have a great deal of confidence in the system for two reasons.

One, they see their own retirement benefits as quite distant, and subject to a great many factors between here and there that they are not too sure about; second, not have a true appreciation of the insurance protection that they get now for their survivors, or against their own disability.

What seems to be happening here is that at the very moment when the public does not fully appreciate the unique value of social security to each covered worker, we are trying to sell it to them by saying that we are going to cut it back further.

For example, there is a very nice little brochure here that the Social Security Administration has just gotten out, which is designed to show people what their benefits are in a general sort of way, and it points out that if you are a young worker who has earned at the maximum rate, and you die, leaving a widow with two small children, that family of three could get as much as $966 a month.

The brochure does not mention that if that worker instead of dying, were to become disabled this year, under present law he would have to sustain a family of four, including one disabled member, on the same amount that is being quoted for three; under the new proposal, he and his family would have approximately one-third less per member in benefits relative to what they would get as survivors.

So we believe that the benefit provisions in sections 2 and 3 should not be enacted in their present form, and we respectfully suggest that you delay action on this bill until next year.

Senator DOLE. First of all, I appreciate very much the statements by the panel. This may be a speculative guess, but what percentage of disabled do you think will make an effort to go to work if the incentives of S. 591 are put into place?

Mr. VERVILLE. We made some estimates looking at the data in the social security survey as well as some of the existing surveys of the blind and the disabled. Our rough guess is that it is in the neighborhood of 10 to 12 percent. It is not what I would consider a large portion of the disabled on SSI.

Now, only 3 to 3.8 percent have any earnings under the SGA cap, and we think that expanding the earnings to a population of 10 to 12 percent certainly for that population would have a substantial impact, and would probably reduce some of the SSI costs for that population.

Senator DOLE. Do you believe the SGA, substantial gainful activity, test to be a valid part of the determination of disability?

Mr. VERVILLE. That is a hard question to answer. I guess my own opinion is that functional limitations are probably the most correct way to determine how disabled someone really is. Whether one can work in certain physical and mental respects is a functional test, but how much one earns seems to be a fairly arbitrary one. To say that at $279 you are disabled, and at $300 you are not, seems to be awfully arbitrary.

So my opinion would be that, on balance, the economic test itself is not particularly determinative of whether one really has a disability.

Senator DOLE. You have indicated that provisions in S. 591 would be some incentive for disabled individuals to go to work. If that is the case, could you state, for the record, why you do not think a significant number would be induced to go to work by the incentives in H.R. 3236, the family benefit cap, and the lower dropout rate?

Ms. BOGGS. Our problem with that is that while it might conceivably influence the decision of a few people who were marginally disabled in respect to the definition that you have just discussed, and who happen to be among those who are alleged to have a high replacement rate after you take into account taxable earnings, you have to figure that someone is pretty smart to figure all that out. While it might have an effect on that person's decision as to whether really to make the effort, in spite of his disability, to go back, the number of people in that group is relatively small as Dick has suggested, what you are doing, then, is penalizing a larger group of people who have absolutely no possibility of going back to work at any kind of pay that would support them. That is unfair, and defeats the purpose of a social insurance program.

It is particularly true that young disabled workers are unlikely to have adequate coverage under other systems. They cannot get into them as fast as into social security. The portability issue arises. Social security has some of these advantages of portability and continuity, which are particular useful for younger workers who, through no fault of their own, become unable to continue participation in the work force.

You are destroying those advantages and you are destroying something that is peculiar to social security as distinct from the private pension plans. You are destroying it for 90 percent in order to try to induce some portion of 10 percent to give work a try.

Mr. SCHLOSS. If I may add to that, Mr. Chairman. The Social Security Administration's own continuous disability history files indicate that the benefit levels were not a signficant factor in the number of individuals on the disability insurance rolls who did return to work.

Then the study of veterans with service-connected blindness made by the Veterans' Administration in 1953, where the benefit levels are not reduced at all on the basis of earnings, indicated that 50.3 percent were gainfully employed, and most of the others had very severe additional disabilities to blindness.

So the benefit level itself is not a deterrent to work, and cutting it would just be unnecessarily cruel.

Ms. BOGGS. I would like to add to that. If you would make reference to table 9 on page 29 of the House staff report on options for financing social security programs, this shows the replacement rates for families with maximum benefits in 1979, 1980, and 1983. It shows a rather high replacement rate for 1980, but it shows that by 1983 there will have been a decline in those replacement rates, that is as soon as you could expect some amendment you might add now to take effect anyway. So the system has got some self-corrections in it already.

In particular, it shows that for people with the maximum earnings, you are getting replacement rates of less than 50 percent with maximum family benefits. The imposition of the House cap on that would reduce those from 49 percent, let us say, to 42 percent. It just does not seem as though that were necessary.

Of course, people always take refuge in the alleged difference between gross earnings and net earnings, and do calculations based on the assumption that the spouse is going to go on working, and that they are going to file a joint income tax return, and that they have average State taxes, and that it does not cost them anything to get the health insurance that they lost when the disabled worker left his employment, and that there are no disability expenses. Those kinds of hypotheses seem to us to be inappropriately addressed by using hypothetical averages.

If the problem is that people don't pay enough taxes on the higher income slots, or on their spouse's earned income, then that ought to be addressed as a tax problem, rather than making assumptions about what people's taxes would be.

Senator DOLE. Thank you very much.

I think that Senator Chafee has some questions that he would like to submit to the panel. Perhaps, you could respond to those in writing, for the record.

Ms. BOGGS. Yes.

The CHAIRMAN. The thought has occurred to me that by one way or another we ought to try to prevail upon private employers to make a certain number of jobs available to handicapped people to do whatever they can do. You don't have to have your sight to do certain jobs. You don't have to have an arm to do certain other jobs. Depending on what one's handicap is, they are capable of doing a great deal of things by simply adjusting for it, if the employment opportunities are made available to them.

I just wondered what you could offer us along that line as to just how we could make more employment opportunities available for handicapped people to operate in the areas where they have the competence to do the job.

Mr. SCHLOSS. If I may start, Mr. Chairman. Better enforcement of the affirmative action programs under title 5 of the Rehabilitation Act of 1973. Section 501 of that act has to do with assisting qualified handicapped individuals to go to work for the Federal Government, and section 503 deals with an affirmative action program for qualified handicapped individuals with contractors with the Federal Government.

Much more active affirmative action, employer education, public education, those are going to be the ways that we will have to go about this, all of it underscored, of course, by very effective vocational rehabilitation services to assist those who have become severely disabled to compensate to the greatest extent possible for whatever handicapping effects their disabilities have had.

Mr. VERVILLE. From what little we have seen from the changes in the tax codes that have been intended to encourage employment by private employers, it would appear that they have not had a substantial impact, although I will be the first to admit that I have not seen any data with regard to what, Senator Dole, your provision dealing with the tax break on salaries of handicapped people, what impact it has had. It is fairly limited in that you have to come through the vocational rehabilitation State system, and then be placed in the job. It is not open to all disabled people.

In general, it seems like the tax breaks have not had a substantial impact on private employers, maybe because they are too constricted, maybe the employers just are not stimulated by those breaks. It seems to me that changes in the tax code should have some impact on them, particularly in times when they can use that kind of break.

Ms. BOGGS. I think that there is some European experience relative to something that is a little different to what you were suggesting, relative to expecting employers who have more than a small number of employees, to set aside a certain number of slots, or a percentage of slots for the handicapped, those laws turn up in full-employment countries, like the Netherlands.

I think that we are a little bit skittish about the business of trying to get jobs labeled that become stereotyped jobs for particular types of disabilities. We believe that disabled people have individualities like the rest of us, and we would rather not have a job get categorized and labeled, such that, for example "we have to have a person in a wheelchair in this job." I think that this would probably set the handicapped back.

On the other hand, I think we need to test out the effects of the recent legislation, that Senator Dole had so much to do with, providing tax breaks for the removal of architectural barriers and the adaptation of the workplace, and things of that nature, which I think could be quite useful.

Mr. VERVILLE. Just one comment, because the Pope was here. I was in Poland for 10 days just recently, and obviously there is a different system of government there, but they do have things called Invalids Co-operatives, which are cooperative enterprises with disabled people as the employees, and they actually own the business themselves. The government lets them keep whatever return there is over and above the salaries and costs of operating the business, which they use for their health care, and rehabilitation. But that is a fairly substantial part of their economy now. It is about 20 percent of all the cooperatives in that country, and they are supposedly, according to answers to questions I asked, competing on an equal basis with the cooperatives that are operated by able-bodied people.

Ms. BOGGS. I think the bottom line is that, in an economy that has 6, 7, or 10 percent unemployment at any one time, it is pretty hard to say that you will reserve jobs for the handicapped to get them off DI, while you put other people on the unemployment rolls.

The CHAIRMAN. We don't really have quite that bad a problem. You have a lot of people who are drawing unemployment insurance, or even some people who are not drawing anything, who because they have resources and do not have to take a particular job right now, simply don't want to take jobs that are demeaning.

Right now, we have about 7 million aliens here in the United States. I am not in favor of just sending them home. What I would do is to make a deal with Mexico to let them produce and ship to us a great many things that we are buying from Taiwan and Japan, where we have a very unfavorable trade balance. But if you sent most of these people back home, there is a real question of whether you could get Americans to take those jobs, even though we have a lot of unemployment. A lot of those jobs might be regarded as demeaning.

It is one thing to have people out of work, but it is another thing when you don't have a very good job to offer, even though it still pays the minimum wage, to get people to take the job. I would think that if you looked at all the employment opportunities that there are, if you sent some of those illegal aliens back, we could find employment opportunities.

Further than that, in the Garment Workers Union, they spread the employment when they have high unemployment. They just shorten the work hours, and they keep everybody at their post. If need be, you could have two people doing the job instead of just one, have two half-time employees to spread the employment around insofar as you could make employment opportunities available.

I just feel that if we ran the country the way we ought to run it, we would find a place for all those who want to work.

I like to think that during the past 20 years we on this committee, have been more innovative than other committees, and we have scared some of them to death that we were moving into their jurisdictions trying to propose answers to problems. We keep thinking, what can we do to provide some of these answers. Senator Dole and others have proposed a tax credit, which is something else that we can do.

We would like to provide opportunities for people. For those disabled people who want to work, we ought to help them try to find jobs, to the extent that we can. I would like to help work toward that solution, even though it might be outside the jurisdiction of this committee.

Ms. BOGGS. It gives us a chance to underline what we may have shortchanged at the beginning of our testimony because of the time limits, and that is our support for the provisions in both SSI and DI bills that do make allowances for the impairment related work expenses, which would permit some people who have quite severe disabilities, but nevertheless have quite apparent abilities, to work and provide their particular skills to our economy, even though the net earnings after all the expenses are taken account of are not as high as would ordinarily be paid in that job.

We have people with paraplegia and quadriplegia who are good computer programmers, which is very high skill and one we need in our economy. Making it possible for people like that to make a contribution, in spite of a disability, is quite important.

Interestingly enough, the National Association for Retarded Citizens, which I represent, and the Paralyzed Veterans of America, which you would think is an entirely different group, find ourselves having a lot in common, a lot of concerns in common, and we realize that some of those fellows have some very important contributions to make, and we want to see them make them.

The CHAIRMAN. Thank you very much.

Senator DOLE. I would like to say that the chairman, has again expressed his interest in finding some new ways, in addition to other ways, of getting handicapped people to work. The tax credit for the removal of architectural barriers is very important, and that expires at the end of this year. This is one that we need to focus on, and see how much benefit there has been, and what we need to do to improve it. That was a measure that I worked on with now Vice President, but Senator Mondale at the time.

There are other areas within the jurisdiction of this committee that I think we could probably address, including S. 591, and maybe some other approach through tax credits, so that the handicapped could find meaningful employment.

Thank you.

The CHAIRMAN. Thank you very much.

[The prepared statements of the presiding panel follow:]

STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR, GOVERNMENTAL RELATIONS DEPARTMENT, AMERICAN FOUNDATION FOR THE BLIND

SUMMARY

The American Foundation for the Blind, American Association of Workers for the Blind, and Blinded Veterans Association—three national organizations concerned about the special needs of blind and severely visually impaired persons—urge prompt, favorable action by the Committee on Finance and the Senate on the provisions of S. 591 and some of the provisions of H.R. 3464 with technical amendments designed to assure applicability of some of the provisions to individuals on the SSI aged and blind rolls.

Simple justice requires equal treatment of persons on the SSI disabled rolls with those on the SSI aged and blind rolls, to whom the Substantial Gainful Activity (SGA) test does not apply. It should also be noted that there are blind or severely visually impaired persons on the SSI disabled rolls who would fare better on the SSI aged or blind rolls—an anomalous situation which enactment of S. 591 would correct in the most equitable way.

On the other hand, the three organizations I am representing urge the Committee to delay action on H.R. 3236, the Disability Insurance Amendments of 1979, until its members and staff have had an opportunity to evaluate its provisions in the light of the recommendations of the Advisory Council on Social Security and in the context of other changes in the Social Security System which may be contemplated by the Committee later this year or in 1980.

In particular, we specifically oppose Section 2 of the bill, which would place a lower cap on the family benefits of disabled workers who qualify for benefits after January 1, 1980, than is currently in effect for disability insurance beneficiaries or other Social Security beneficiaries. Also, we specifically oppose Section 3 of H.R. 3236, which would reduce or eliminate the number of "drop-out years" used in computing individual benefits for middle-aged and younger workers who qualify for disability insurance benefits after January 1, 1980.

According to the House report accompanying H.R. 3236 and the September 6 House floor debate, these sweeping across-the-board cuts in benefits for disabled workers and their families are designed to eliminate work disincentives created by the higher benefit levels. This premise is not supported by the facts. Social Security Administration (SSA) statistics indicate that only ten percent of current disability insurance beneficiaries have any earnings at all; and it is likely that prospective disability insurance beneficiaries will have the same experience, given the stringent standards required to qualify for disability insurance benefits.

In fact, the contrary would appear to be the case. A 1953 Veterans Administration study of blinded veterans with service-connected blindness proved that disability compensation, which is neither reduced nor discontinued based on earnings, was not disincentive to work. SSA studies conducted between 1972 and 1975 demonstrated that disability insurance beneficiaries were not significantly influenced by benefit levels in their ability to return to work and leave the rolls.

The organizations I am representing endorse enactment of the provisions of H.R. 3236 designed to eliminate genuine work disincentives, such as extension of the trial work period, continuation of medicare coverage for an additional three years, after a beneficiary leaves the rolls, and elimination of a second 24-month waiting period for medicare coverage for an individual who resumes disability insurance benefits.

INTRODUCTION

Mr. Chairman and members of the Committee, I appreciate this opportunity to testify on S. 591 and H.R. 3464, bills to improve the SSI Program for the Disabled, and H.R. 3236, the Disability Insurance Amendments of 1979.

In addition to representing the American Foundation for the Blind, the national voluntary research and consultant organization in the field of services to blind persons of all ages, I am today also speaking on behalf of two other national organizations in our field. They are: American Association of Workers for the Blind, the national membership organization of professional workers with blind persons, and Blinded Veterans Association, the Congressionally-chartered membership organization of the nation's warblinded.

All three of these organizations believe that enactment of the disability insurance provisions of title II of the Social Security Act and their subsequent strengthening have been a vital contribution to the nation's social insurance system. We are deeply grateful to the Congress for the sound concept and positive philosophy inherent in a nationwide contributory insurance program designed to compensate workers and their dependents for loss of earnings resulting from severe disability.

As successful rehabilitants and as rehabilitation professionals, the members and staff of the organizatons we are representing today know from firsthand experience the validity, value, and effectiveness of sound vocational rehabilitation for blind persons in the optimum employable age range. Over the past half century, several of these organizations worked diligently with the Congress to improve the Vocational Rehabilitation Act; and all of them worked to achieve the major improvements made in the Rehabilitation Act of 1973 by the 1978 amendments. We firmly believe that uniform, nationwide criteria of eligibility for disability benefits should be applied and strictly enforced. We welcome administrative and legislative improvements with state disability determinations units, better training of disability determinations unit personnel, resumption of federal monitoring of substantial numbers of disability benefit allowances, rewriting of incomprehensible claims manual jargon into simple English as is currently being done with federal regulations, and federalization of disability determinations units when necessary.

We welcome elimination of disincentives to employment provided in H.R. 3236, such as extension of the trial work period, extension of medicare benefits after removal from the disability insurance rolls, and automatic reinstatement of medicare and disability insurance benefits should employment not prove successful. But the bill does not deal with the disincentive created by rehabilitation for employment at earnings lower than predisability earnings or, even more significant, lower than disability insurance benefits.

Nor is the reduction in cash benefits provided for in H.R. 3236 a way of creating incentive to work and removal from the disability insurance rolls. On the contrary, this punitive proposal will increase poverty in the majority of cases affected. There are too many other factors involved, such as age, education, predisability work skills, and family status and conditioning which influence motivation to work.

All three of these national organizations endorse enactment of the provisions of S. 591 and some of the provisions of H.R. 3464 as a means of establishing equitable treatment for individuals on the SSI disabled rolls with those on the SSI aged and blind rolls. We urge prompt, favorable action on these bills.

In contrast, we urge the Committee to delay action on H.R. 3236 until its members and staff can evaluate its provisions in the light of the recommendation of the Advisory Council on Social Security and in the context of other changes which may be made in the Social Security System later this year or next year.

SSI IMPROVEMENTS

S. 591 contains a number of overdue improvements in the SSI program and, in particular, corrects a serious inequity for those individuals on the SSI disabled rolls. By authorizing a supplemental payment equal in amount to the SSI benefit for those on the disabled rolls whose earnings exceed the SGA amount, the bill creates parity with the benefit structure for persons on the SSI aged and blind rolls.

As a result, persons on the SSI disabled rolls who meet the criteria of the medical listings or their equivalent would lose entitlement to any SSI payment when their earnings reach $481 a month, the same phase-out point for cash benefits currently applicable to persons on the SSI aged and blind rolls. This is a genuine work incentive which the organizations I am representing endorse.

It should be noted that there are blind or severely visually impaired persons—many with other primary disabilities—on the SSI disabled rolls. Although we are unable to determine the exact number from SSA, the 1970 study of the aid to the permanently and totally disabled public assistance rolls conducted by HEW's National Center for Social Statistics revealed that 4.7% of those recipients were severely visually impaired—unable to read ordinary newspaper print with corrective glasses. The number in 1970 with this serious vision problem would have been approximately 47,000 persons. We have every reason to believe that this number has increased over the years since then, with the likelihood that a substantial number are legally blind.

Another valuable work incentive in S. 591 is contained in the provisions of Section 4, permitting exclusion of the cost of attendant care services, medical devices and prostheses, and similar services and devices. In determining SGA, we would like to recommend that the provisions of Section 3(a) of H.R. 3464, authorizing an exclusion of 20% of gross earnings for standard work-related expenses, such as transportation costs, income taxes, and FICA tax, be incorporated in the bill the Committee reports as an enhancement of work incentive.

The provisions of Section 3 of S. 591, assuring continued entitlement to medicaid and title XX social services in accordance with criteria specified in the bill and by the Secretary after individuals leave the SSI rolls because of earnings, are especially important work incentives. They should be assured to every eligible individual and eligible couples who reach the phase-out point for cash benefits on the SSI aged, blind, and disabled rolls. A precedent for continuation of these valuable benefits was established by the Congress with enactment of Public Law 94-48, assuring continued medicaid eligibility for SSI recipients who left the rolls because of cost-of-living increases in title II OASDI benefits.

Finally, we would like to recommend inclusion of Section 1631(a)(6) as proposed by Section 8(a) of H.R. 3464, covering continuation of SSI benefits for individuals who recover medically while enrolled in a vocational rehabilitation program. The blind were inadvertently omitted in the amendment to Section 1631(a) of the Social Security Act. It should read as follows:

"(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 blindness (as determined under Section 1614(a) (2)) or 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 benefits is based has or may have ceased if . . ."

DISABILITY INSURANCE

In contrast, the three national organizations I am representing respectfully urge the Committee to delay marking up and reporting H.R. 3236, the Disability Insurance Amendments of 1979. Sections 2 and 3 of this bill are punitive and would cut disability insurance benefits across-the-board for those who become eligible after January 1, 1980, on the undocumented premise that cuts in both individual and family benefits would remove work disincentives. We would urge the Committee to wait until its members and staff have an opportunity to review the report of the Advisory Council on Social Security and to take action in the context of other changes which may be contemplated in the Social Security System later this year or in 1980.

CEILING ON FAMILY BENEFITS

H.R. 3236 would place a ceiling on family benefits of 80 percent of a worker's average indexed monthly earnings (AIME), or 150 percent of the primary insurance amount (PIA), whichever is lower, with a minimum of 100 percent of PIA, for disability insurance beneficiaries and their families. In 1977, according to former HEW Secretary Califano, 6 percent of disability insurance beneficiaries had family benefits higher than predisability net earnings and another 16 percent had family benefits exceeding 80 percent of the worker's predisability earnings. However, SSA derived these figures on the basis of involved estimating procedures, the validity of which is questionable; and there is no documentation of actual cases in which these distortions occurred.

It was our understanding that adoption of the new computation method in the Social Security Amendments of 1977 with decoupling would eliminate the problem of benefits exceeding preretirement or predisability earnings after January 1, 1979. Until the Committee receives incontrovertible documentation that family benefits for disability insurance beneficiaries are too high, we urge elimination of Section 2 of H.R. 3236.

DROPOUT YEARS FOR BENEFIT COMPUTATION

We are concerned about the proposed change in the number of years of low earnings which may be dropped in computing the AIME for younger disabled workers under Section 3 of H.R. 3236. Despite the fact that proportionately higher benefits may result for younger workers, these benefits are based on a computation during periods when the taxable wage base was substantially higher than in the past. Indexing provided for by the Social Security Amendments of 1977—AIME—should adjust the benefits of older workers to take inflation into account. We, therefore, urge the Committee to eliminate Section 3 of the bill.

WORK INCENTIVES

We welcome the variety of proposals in H.R. 3236 designed to eliminate work disincentives for disability insurance beneficiaries. However, we do not believe that reduction of cash benefits spurs incentive to work for severely disabled individuals. In 1952-53, the Veterans Administration conducted an extensive survey of World War II and Korean Conflict veterans with service-connected blindness—1949 veterans at that time. The findings of this study were published in 1958 by the Veterans Administration entitled, War Blinded Veterans in a Postwar Setting, A Social Work Followup of Rehabilitation Measures for Blinded Veterans with Service-Connected Disabilities between December 7, 1941, and March 31, 1953.

The following excerpt from the "Conclusions" appears on page 198 of this book and is relevant to the current hearings by this Committee:

3. Impediments to employment.—Compensation did not impede the employment of 50.3 percent of the group studied; nor was there a basis for the assumption that compensation was a primary impediment to the employment of the other 49.7 percent when they were considered with respect to factors other than compensation which in addition to blindness might make employment difficult. Total blindness itself was a greater hindrance than partial sight, and there was a strong indication that multiple disabilities served as a serious impediment, hearing difficulties showing up as one factor which was retrograde. In a special sampling discomfort and pain themselves gave evidence of working against employment. Educational disadvantages appeared as a strong deterrent. Broken or incomplete family ties acted as another. Blindness by disease served as another, though this group more frequently had partial sight. Slow loss of sight and gradual debilitation, as in 35 cases of

multiple sclerosis, appeared to work against all rehabilitation processes including employment.

The fact that 50.3 percent of the entire group were employed, despite an average of two major handicaps, might well lead to the discovery that, far from acting as a deterrent to employment, and irreducible minimum of income may give a needed confidence to employer and blind employee. A firm conclusion in this matter would require statistical data regarding a comparable group of blind people without such income.

Because the 1953 VA study of service-connected blinded veterans tended to prove that VA disability compensation, which is not reduced when a veteran becomes gainfully employed, served as an incentive rather than a disincentive to work, the three national organizations I am representing oppose cutting family benefits under Section 2 and individual benefits under Section 3 of H.R. 3236.

Data from SSA's Continuous Disability History Sample file, which relates the replacement rate, including family benefits, and average pre-disability earnings to the rate of recovery, does not offer conclusive evidence that high replacement rates are a disincentive to work.

Data derived from this program and published in the April 1979 Social Security Bulletin show that, for the sample's largest number of working adults with dependent children, recovery rates indicated little variance with changes in earnings replacement. Of the sample's 12.2 percent of workers with one dependent child, 8.2 percent of the workers with an earnings replacement rate of 75 percent or more recovered while 10.4 percent of those with less than a 75 percent replacement rate recovered.

Also based on the Continuous Work History Sample, an article in the March 1979 Social Security Bulletin, concludes:

"Recovery for work is sharply limited by the original eligibility requirements; that is, severe and chronic illness that drastically affects earning capacity. . . . Any expectation of substantially reducing the program's size by means of work incentives, however, is placed in sobering perspective by the very low rate of benefit terminations for recovery among those who had sustained work while still beneficiaries."

The article also stated:

"A large proportion of those awarded benefits were older middle-aged workers with chronic progressive diseases. About seven in ten were aged 50 or over at allowance. . . . Essentially the program has functioned as a total and permanent disability program for middle-aged workers with progressive diseases related to aging.

"For most disabled workers whose claims were allowed because they were uable to work, recovery is not possible and program incentives to foster recovery are likely to have little effect. The cross-tabular data suggest that, because of their older age, the chronic nature of diseases related to aging, and high mortality, few may have the physiological capacity to improve medically or return to work. Benefit amounts appear to have played only a small part in distinguishing those who left the rolls from those who did not."

In sum, the most authoritative data available simply do not support the concept of using an across-the-board family benefit cap as a work incentive.

WORK DISINCENTIVES

As the Veterans Administration excerpt quoted earlier stated, there are a number of factors other than "high" cash benefits or loss of eligibility for medicare which serve as deterrents to work. Relatively low earnings following vocational rehabilitation is a significant factor. According to the Rehabilitation Services Administration, mean monthly earnings of individuals rehabilitated during the fiscal year 1977 were as follows: all rehabilitants (275,578) $424.67; severely disabled rehabilitants (122,670) $372.67; nonseverely disabled rehabilitants (152,793) $468.00. For 9,001 blind rehabilitants, included in the severely disabled group previously mentioned, the mean monthly earnings were $251.33.

Reducing family benefits and individual benefits cannot be expected to spur interest of disability beneficiaries with low vocational potential to seek vocational rehabilitation and employment. Clearly, improvement in the quality of vocational rehabilitation and placement in jobs commensurate with ability, as well as the potential for advancement is essential.

We recommend a combination of approaches to improve the quality of rehabilitation personnel as well as bonus incentives to state rehabilitation agencies.

Nor can we minimize the effects of public and employer attitudes toward handicapped individuals as a factor which tends to serve as a deterrent to removing people from the disability insurance rolls. We recommend a vigorous education and enforcement program of the title V provisions of the Rehabilitation Act of 1973 by the successor agencies to the Civil Service Commission, HEW, and the Department of Labor to prohibit discrimination against otherwise qualified handicapped individuals and to fully effectuate affirmative action programs for employment of qualified handicapped individuals by Federal, state, and local governments as well as contractors with the Federal Government.

Despite the Age Discrimination in Employment Act of 1967 and the Age Discrimination Act of 1975, we cannot overlook the negative effects of age combined with a severe disability as a deterrent to employment of disability insurance beneficiaries. We know that more than one-third of the blind disability insurance beneficiaries are 45 and older. According to SSA, 2.372 million of the 2.8 million disability insurance beneficiaries are 45 and older.

Under the Age Discrimination Act of 1975, the U.S. Commission on Civil Rights was authorized to make a study of patterns of age discrimination in the United States. The study results, released in 1977, revealed that after attainment of age 45, decreasing numbers of people were being served in virtually every Federally assisted program. We know this to be especially true with regard to vocational rehabilitation services to blind persons over 45.

Obviously, there is need for radical change in public attitudes toward handicaps, toward age, and certainly toward the combination, which will require many years of public education and legal action before we can expect a major impact on the disability insurance rolls.

ALTERNATIVE WORK INCENTIVE

We would like to propose another approach to creating incentive to work which would be applicable to all disability groups. We recommend that the Committee give favorable consideration to reducing disability insurance benefits by one dollar for every two dollars of earnings in excess of the SGA amount.

This provision is already in effect for OASI beneficiaries whose earnings exceed the retirement test, and it is already in effect for SSI recipients with earnings in excess of the first monthly excluded amount of $65 or $85.

On the other hand, abrupt termination of disability insurance benefits when monthly earnings exceed the SGA amount is a clear-cut disincentive for the individual to work. It can easily be remedied as it has been for Social Security retirees and SSI beneficiaries.

TRIAL WORK PERIOD EXTENSION

We wholeheartedly endorse the extension of the trial work period from nine to 12 months and suspension rather than termination of disability insurance benefits for an additional 12 months, so that a disabled worker would automatically be reentitled to cash benefits upon termination of employment during the second 12 months period. However, for the most severely disabled, we would recommend automatic reinstatement on the disability insurance rolls upon termination of employment during the five years succeeding the initial trial work period, as is being proposed for medicaid reenlistment.

We believe that these provisions will go far to allay anxiety concerning failure at a job and thereby remove a major disincentive to rehabilitation and gainful employment.

MEDICARE-RELATED DISINCENTIVES

We endorse the provision eliminating a second waiting period for reinstatement of medicare benefits for workers who return to the disability insurance rolls. Also, we believe that extending medicare coverage for an additional 24 months following the 12 months trial work period, as well as automatic reinstatement of medicare coverage if employment is terminated during the five years after a worker leaves the disability insurance rolls are all major improvements over existing law.

Of course, enactment of a comprehensive national health insurance program would obviate the need for piecemeal health care programs with extensive variation in entitlement criteria, administrative mechanisms and procedures, monitoring, and attendant high indirect costs.

Pending enactment of such a program, we believe that it would be simpler and more equitable to continue medicare coverage for workers who leave the disability insurance rolls in the same way OASI beneficiaries aged 65 are entitled to medicare coverage whether or not they work. Further, many disability insurance beneficiaries who return to work will find adequate health insurance impossible to obtain or available only at prohibitive rates solely because of their disabilities unless their employers have true group health insurance coverage at uniform rates for all employees, whether or not they have any disabilities or handicapping conditions.

DISABLED WIDOWS AND WIDOWERS

Probably the most seriously deprived group of beneficiaries under title II of the Social Security Act are disabled widows, widowers, and surviving divorced wives. Therefore, we welcome the proposals which would equalize trial work provisions and medicare coverage for them in the same way as for disabled workers. We hope that our additional recommendations for improvements in the trial work provisions and medicare coverage will be made applicable to them as well.

We would like to urge favorable action on some additional improvements in the provisions of title II applying to disabled widows, widowers, and surviving divorced wives. First, we urge that the definition of disability for these individuals be made identical to the definition of disability for disabled workers. At present, their eligibility for cash benefits depends on their inability to engage in any gainful activity rather than inability to engage in any substantial gainful activity.

Second, their entitlement to cash benefits depends on their attainment of age 50, as was the case with the regular disability insurance program more than 20 years ago. We urge elimination of the age 50 requirement altogether, or at the very least, changing the requirement to attainment of age 40. The Age Discrimination Study of the U.S. Commission on Civil Rights underscores the desirability of eliminating or reducing the age requirement for cash benefits since essential rehabilitative and social services are more readily available to younger persons.

WORK-RELATED EXPENSES

We endorse the proposal to exclude work-related expenses, including the cost of attendant care, in determining the SGA amount. We recommend that the provisions relating to work-related expenses as administered for blind SSI beneficiaries, plus attendant care costs be applied to disability insurance beneficiaries. Obviously, there is no incentive to work if the cost of obtaining earnings wipes out those earnings.

OTHER ADMINISTRATION PROPOSALS

As the members of this Committee are aware, The Budget of the United States Government for the fiscal year 1980 and the Budget Appendix contained a number of legislative proposals affecting title II of the Social Security Act. Former HEW Secretary Califano transmitted these proposals to the Congress on April 19, 1979, accompanied by a draft bill entitled, "Social Security Amendments of 1979." Although this bill has not yet been introduced, several of its provisions will adversely affect disability insurance beneficiaries and their families. We therefore urge the Committee not to act favorably on them when the bill is introduced.

These proposals include:

1. Elimination of the burial allowance under title II and its transfer to title XVI, thereby making it subject to a means test.
2. Elimination of the minimum monthly benefit of $122, again a regressive step away from social insurance to public assistance.
3. Elimination of inclusion in the family benefit of maintenance payments for a dependent child of a widow, widower, retired worker, or disabled worker if the child is over 16.
4. Elimination of inclusion in the family benefit of a maintenance payment for a dependent child between the ages of 18 and 22 in a postsecondary education program.
5. Reduction in or elimination of the drop-out years for deceased workers, thereby reducing widows' and orphans' benefits.

CONCLUSION

The three national organization I am representing endorse enactment of the provisions of S. 591 and H.R. 3464 to assure equity in the benefit structure for individuals on the SSI disabled rolls. These bills would assure disabled SSI recipients parity with individuals on the SSI aged and blind rolls.

Our three organizations believe that H.R. 3236, the Disability Insurance Amendments of 1979, contains recommendations which will improve the disability insurance program under title II of the Social Security Act. We have made additional recommendation which we believe will further improve these proposals and the disability insurance program.

However, we oppose Sections 2 and 3 of the bill, which would cut benefits across-the-board for prospective disability insurance beneficiaries and their families. In particular, these sections would adversely affect younger workers, women, Vietnam era veterans, minorities, and dependent children—some of them disabled—of disabled workers.

We urge the Committee to act favorably on our recommendations and take into account in its deliberations the recommendations of the Advisory Council on Social Security and other study groups authorized by the Social Security Amendments of 1977 (P.L. 95-216) and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).

The disability insurance program is a major component of our social insurance system. We sincerely hope that the Committee on Finance and the Congress will seek to enahance rather than diminish its value to the American people.

TESTIMONY OF PANEL ON BLINDNESS AND DISABILITY—REPRESENTING: AMERICAN ASSOCIATION OF WORKERS FOR THE BLIND; AMERICAN CONGRESS OF REHABILITATION MEDICINE; AMERICAN FOUNDATION FOR THE BLIND; ASSOCIATION FOR RETARDED CITIZENS; BLINDED VETERANS ASSOCIATION; EPILEPSY FOUNDATION OF AMERICA; MENTAL HEALTH ASSOCIATION—NATIONAL; NATIONAL ASSOCIATION OF PRIVATE RESIDENTIAL FACILITIES FOR THE MENTALLY RETARDED; NATIONAL ASSOCIATION OF STATE MENTAL HEALTH PROGRAM DIRECTORS; NATIONAL ASSOCIATION OF STATE MENTAL RETARDATION PROGRAM DIRECTORS; NATIONAL EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN AND ADULTS; NATIONAL REHABILITATION ASSOCIATION; NATIONAL SOCIETY FOR AUTISTIC CHILDREN; AND UNITED CEREBRAL PALSY ASSOCIATION, INC.

INTRODUCTION

Nineteen seventy-nine has been a difficult year for organizations representing the interests of handicapped persons relative to federal income maintenance programs. On the one hand, Congress is favorably considering a work incentive package for the Supplemental Security Income (SSI) program which would eliminate longstanding inequities for disabled recipients of SSI. At the same time Congress also is considering legislation relative to the Social Security Disability Insurance program which would, among other things, reduce benefits for future disabled workers with families and those who become disabled at an early age.

To provide a more flexible benefit package for the disabled under one disability program while cutting benefits for severely disabled beneficiaries under another program seems somewhat contradictory and has resulted in confusion on the part of many legislators and the production of massive amounts of data by sources both internal and external to the Congress. It is hoped that our testimony will help clarify both the current situation and our position.

Summary A. Position on H.R. 3464 and S. 591

The modifications being considered relative to the SSI program, H.R. 3464 and S. 591, have been debated, analyzed and costed for years. They are known entities with strong support from disabled persons and their representative organizations. Provisions contained in H.R. 3464 and S. 591, if enacted, would go a long way toward establishing a positive, balanced package of benefits and work incentive for disabled SSI beneficiaries. We urge early action on these bills.

Summary B. Position on H.R. 3236

There are certain provisions in H.R. 3236, the Disability Insurance Amendments of 1979, which complement the SSI changes. However, other provisions are extremely controversial, and in our opinion, misdirected. These provisions are, be believe, based on faulty assumptions and misleading or out-of-date information. Advocates for the disabled are so strongly opposed to these provisions that we would rather see the good provisions portponed another year than permit this bill to pass in anything like its present form.

Specifically, we support Sections 5, 6, and 7 of H.R. 3236, dealing with work aids and incentives for that minority of disability beneficiaries who could work while remaining severely disabled and authorizing administrative changes in the state/federal components of the system. We strongly oppose Sections 2 and 3 which would: (1) curtail drop-out years for all young disabled workers; and (2) replace the present cap on family benefits with a more restrictive one—one not tailored to the problem it is supposed to address.

Because too little time remains now to sort out these problems, we urge the Finance Committee to proceed promptly with mark-up of the SSI legislation but to delay final consideration of the Disability Insurance legislation until the Social Security Advisory Council publishes its final report next month (November, 1979). This delay would give Committee members additional time to study the issues in the light of alternative proposals which are better tuned to the problems and to gather more timely, relevant data on which to base their decisions.

In support of the need for detailed, reliable information on which to base decisions about disability programs, the Office of Management and Budget's staff's technical paper titled, "Disability," by Jonathan Sunshine, 1979, states that:

"There are widespread allegations that disability programs are frequently misused, with persons who are not really disabled obtaining benefits from the program. However, such allegations are rarely substantiated in detail.

"Publicity surrounding questionable situations is often to be found. However, while this publicity provides suggestive information about where to look for problems, the mass media rarely provide the systematic, quantitative evidence that would show that a system as a whole is malfunctioning, rather than there being a scattered few individuals who misuse it. *And one should not accept unsubstantiated allegations of wholesale problems as evidence that they do, in fact, exist.*" (Italics added.)

We believe this malaise to be part of the ambiance giving rise to the provisions reducing benefits in the Disability Insurance bill and suggest that a more educated, comprehensive look be taken at the entire Social Security insurance system prior to enacting such provisions.

H.R. 3236 embodies changes in the benefit structure for the disabled which were first proposed more than two years ago in an atmosphere of crisis, at a time when the Disability Insurance Fund was believed to be heading toward imminent insolvency. This threat has proved to be transient. The 1977 amendments, together with a moderation in the disability incidence rate, currently and as projected, have sufficed to put the DI Fund in even better shape than the Old Age and Survivors Insurance (OASI) fund. The attached chart (Chart I) shows the latest projections of the DI Trust Fund Ratio prepared by the chief actuary of the Social Security Administration.

In its Committee Report on H.R. 3236, the House Ways and Means Committee stated that the proposed limitations on benefits in H.R. 3236 are temporary and transitional "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 . . ." It does not make sense to enact legislation with such dire, far reaching consequences for disabled people and their families under these conditions. We urge the Finance Committee to delay action on H.R. 3236.

DISABILITY INSURANCE AMENDMENTS—DETAILED ANALYSIS

We support Sections 5, 6 and 7 of H.R. 3236; these Sections would:

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

(b) 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 disability rolls;

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

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

However, the value of these desirable provisions is more than offset by Sections 2 and 3 of the bill. These Sections would: 1. further limit the total family benefits for future disabled workers; and 2. reduce the number of drop-out years for younger disabled workers.

Together these two provisions would result in an average 15 percent cut in SSDI benefits for future disabled recipients with dependants. Some individuals with dependants would suffer much more than the "average" reduction. We find this situation intolerable, and feel these provisions are based on premature, faulty data. It is gratifying to note that the Disability Insurance bill introduced by Senator David F. Durenberger, S. 1643, omits these two benefit cutting provisions.

We are concerned because H.R. 3236 delivers a triple whammy to the innocent in the name of restoring "equity" with retirees and "removing work disincentives" by restricting benefit levels. Whammy number one was delivered in 1977, when the indexing of monthly earnings reduced the discrepancy in the Primary Insurance Amount (PIA) between retirees and younger beneficiaries who become entitled in the same year. Indexing now favors those whose years of coverage go back to previous decades. Whammy number two is the proposal to limit the drop-out years for younger workers, and whammy number three is the proposal to limit family benefits for disabled workers more closely than for other beneficiaries, even though it is disabled workers who are most likely to have dependant children. In our opinion, one whammy is enough.

The lingering fear of a crisis in the Disability Insurance program has motivated some members of Congress to maintain the momentum of a crisis which did not materialize. A substantial amount of data is available which proves that there *is indeed no crisis.* For instance, the 1979 OMB Technical paper, in summarizing its data, states that, "it is reassuring to note that:

"Disability benefits have remained a remarkably constant 23-24 percent of total retirement, survivors, and disability payments since 1960, and are far below the 36 percent share they held in 1950."

Following a discussion of the factors which were responsible for the rapid growth in the number of SSDI beneficiaries in the early 1970's, OMB staff further summarize that: "*disability programs may be somewhat repeating the AFDC welfare crisis of the 1960's, with the dramatic increase in beneficiaries largely representing a growing percentage of eligible persons claiming benefits.* Rapid expansion may be over. Claims rates in DI and civil service retirement, for example, are not longer rising."

The "fear" of a crisis was partially based on the assumption that the Disability Insurance trust fund is in jeopardy. It has been clearly documented that this is not true and that the trust fund will be sound well into the next century. The Social Security Advisory Council has gone so far as to recommend merging the old-age and disability funds so that surpluses in the flush disability fund could be used to aid the more needy old-age fund.

Another assumption underlying the two benefit cutting provisions of H.R. 3236 which is extremely disturbing to organizations representing handicapped persons is that by cutting benefits, persons who are severely and totally disabled will somehow return to work. The American Foundation for the Blind recently summarized evidence from several Social Security administration studies of the DI population which show that recovery rates show little variance with changes in earnings replacement. For example, 8.2 percent of the workers with an earnings replacement rate of 75 percent or more returned to work while 10.4 percent of those with less than 75 percent replacement returned. A more detailed analysis is included in the separate statement submitted for the record by the American Foundation for the Blind. The study further shows that replacement rates have a secondary effect as compared to age and category of disability. Thus young workers are highly motivated to work if they can. The crude formula contained in H.R. 3236 penalizes those who cannot respond to its incentives as well as those who might. Many suffer for the hypothetive motivation of the few.

Moreover, in any discussion regarding incentives to return to work, one must realize that the SSDI definition of disability is the strictest employed by the Federal Government. The DI program defines disability as the consequence of an impairment so severe that a person is not only unable to do his previous work, but considering his age, education, and work experience, is unable to engage in any kind of substantial gainful activity which exists in the national economy. Other systems such as the Federal civil service retirement system define disability as a physical or mental condition which prevents an employee from performing any essential part of the duties he is assigned or from functioning on the total job without hazard to himself or others. There is no requirement that the claimant try other work or that the employer try to redesign the job so it will be within the residual capacity of the individual.

The Disability Insurance program also has the strictest earnings test. Earnings in excess of $280 a month result in termination of benefits. Again, for the sake of comparison, under the civil service disability retirement program a beneficiary's earnings must exceed 80 percent of the current salary of the position from which the individual retired for two consecutive calendar years. Other systems, such as service-disabled veterans' compensation and firemen's retirement, have no earnings test at all.

The strict definition of disability and the severity of the earnings test employed by the Disability Insurance program mean that only severely disabled individuals qualify for benefits. These are the people most likely to need some support for the remainder of their lives. Motivation and the ability to return to work are the result of many diverse factors impinging on the disabled individual's life such as age, education, and family status. There is no guarantee, and in fact it seems ludicrous to assume, that by cutting a disabled person's benefit and/or the benefits he receives for his family, he will jump up and go to work. This point was succinctly made by Representative James C. Corman in his floor remarks on September 6 to Representative J. J. Pickle, sponsor of H.R. 3236, regarding the Disability Insurance program. Mr. Corman stated:

"I am fascinated by the gentleman's concern that only 1.3 percent of these people go back, because the law says 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?

"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."

Charts II and III make it clear that under present law no disabled individual except those covered by minimum benefit guarantees will receive replacement income in excess of the Average Indexed Monthly Earnings (AIME). It is important to note that AIME is *not* the same as maximum earnings prior to onset of disability. Under present law, no family with an income of over $3,600 a year will receive excess replacement. Individuals with incomes below $2,400 and families with incomes below $3,600 account for half the beneficiaries with "High replacement" cited by Secretary Califano. Both of these groups are on the face of it eligible for SSI and/or Aid to Families with Dependent Children. Hence, further reducing their DI benefits merely transfers costs from the trust fund to general federal and state revenues. It does not in itself change the incentives.

The second group with "high replacement" are those with families having incomes from $3,600 to $9,000. None receive excess replacement. Many of these families, if there is a working parent, will be eligible for the rebatable earned income tax credit. Thus, a further reduction in benefits justified as a work incentive, will have a tax cost. Those families in which the disabled member in fact cannot return to work over the long haul will be significantly disadvantaged.

The House Ways and Means Committee's Subcommittee on Social Security, in its September 24, 1979, report, "Options for Financing the Social Security Programs," stated that the actions taken by the House relative to H.R. 3236 were not intended to be precedent in any way for the Old Age and Survivors Insurance program. Following this, the report presented a table (see below) on potential replacement rates under current law resulting from the payment of maximum family benefits to families of workers having low, average or maximum covered earnings during their lifetimes, and retiring in 1979, 1980 or 1983 with full benefits. The table also shows the potential replacement rates resulting from the payment of maximum family benefits to families of a disabled or deceased worker who became disabled or died at age 35.

HYPOTHETICAL REPLACEMENT RATES FOR FAMILY WITH MAXIMUM BENEFITS IN 1970, 1980, AND 1983

[Benefits as a percent of final year's earnings]

	Replacement rates		
	1970	1980	1983
Maximum family benefit worker retiring at age 65:			
With low earnings	69	99	83
With average earnings	61	89	76
With maximum earnings	55	55	43
Maximum family benefit worker becoming disabled or who dies at age 35:			
With low earnings	72	85	85
With average earnings	67	79	79
With maximum earnings	58	51	59

From the above, it is clear that survivors are somewhat better off than dependents of disabled workers, given the same family size, since the same maximum family benefit applies, but there is one less family member to utilize benefits when the covered worker dies. If, as in H.R. 3236, benefits for the dependents of a disabled worker are further curtailed, this discrepancy in benefits will become even greater. The family benefits for retirees are generally higher than those for the disabled or deceased; a gap which also will be widened should H.R. 3236 become law.

Reducing the drop-out years for young disabled workers will reduce their PIA and benefits in most instances. It will almost guarantee that except for those protected by the minimum benefit, "replacement" defined in terms of peak earnings before onset of disability will be low.

Limiting drop-out years is supposed to prevent the young worker who becomes disabled from entering the system at a high benefit level as a result of a few brilliant years prior to his catastrophe. As Chart II illustrates, no one can now make an excess replacement at a prior monthly earnings level of more than $300. The argument is that without limiting drop-out years, the young worker's PIA and hence his benefit will exceed that of an older person retiring in the same year. However, if PIA's are thus equalized at initial entitlement by reducing drop-out years for young disabled people, the erosion of the young person's "equity" with potential retirees in the same age cohort will accelerate to the disadvantage of both the single disabled individual, as well as of the one with a family. This results from his transfer from wage indexing to cost-of-living indexing.

The effect of using wage indexing before entitlement and price indexing after entitlement must be examined more carefully. It's long range impact has not been discussed. The average wages are expected to increase more rapidly than average prices. As long as a person is working, even at the same job, his AIME is increasing. As soon as he becomes entitled, his PIA is established, and he then receives benefits which are subsequently indexed to prices. Although his benefits are increased with inflation, there is a divergence between his benefits and those of another worker of the same age in the same job who does not seek benefits until later. This divergence may be from 1 percent to 3 percent per year. It will be even greater if the person who stays in the work force actually receives promotional increases as well as normal wage increases.

The "normal" retirees may be entitled for, say, five to twenty years. At age 80 he may be receiving significantly less than the person just retiring from the same job. However, this attrition is not as serious as it will be for the worker who became entitled as a young person, say at age 35. By the time he is 65 he has suffered 30 years of attrition relative to members of his birth and wage cohort who were not disabled.

This effect is most severe for survivors. Among the survivors most severely affected are disabled children who never enter the work force and whose sole entitlement (as adults) to Title II benefits derives from the work record of a disabled parent. Thus, a reduction in the parent's PIA at early entitlement which is never adjusted or recalculated has a cumulative effect on the child reaching far into the future.

There are now some 30,000 adult disabled child beneficiaries who are entitled as the children of disabled workers, and an undetermined number who are the *survivors* of disabled workers. These adult disabled beneficiaries having been disabled during their developmental years are among the most vulnerable and most severely handicapped in the community of the disabled. In most cases they have complex neurological or mental disorders.

Because the 1977 Amendments to the Social Security System have already addressed the problems which the proposed limitation on drop-out years is geared to correct, and because of the devastating impact on workers and their survivors which the limitation would impose, we urge the Committee members to eliminate this provision from any Disability Insurance bill reported out of Committee.

SUPPLEMENTAL SECURITY INCOME

The organizations represented by this panel strongly endorse S. 591, Amendments to Title XVI of the Social Security Act, which is sponsored by Senator Robert Dole, and co-sponsored by four other members of the Senate Finance Committee. We recognize that this bill has such strong bipartisan support because it is a well-crafted piece of legislation which was hammered out by the Finance Committee during the final months of the 95th Congress.

This panel's views on the provisions contained in S. 591, as well as H.R. 3464, are described in September 26, 1978, testimony presented before the Finance Committee's Subcommittee on Public Assistance. Our views and their rationale have not changed. Consequently, we urge the Committee to report S. 591 and suggest the addition of the following provisions currently contained in H.R. 3464:

1. *Section 6, termination of attrition of parent's income and resources when child attains age 18*

Under current law, if a disabled individual between the ages of 18 and 21 is enrolled in an educational or training program, his parents' income is deemed to him, often making him ineligible for any SSI benefit. Individuals who are over 17 and not enrolled in such a program do not have their parents' income deemed. This situation must be rectified so that blind and disabled individuals over 17 are not penalized for participating in an educational or training program. We strongly urge the Committee to include this provision in its SSI bill.

2. Section 3, exclusion of work-related expenses

We understand the reluctance expressed by the Committee during the 1978 debate on SSI legislation to include an open-ended exclusion from countable income for all work-related expenses which could be documented by the disabled individual. However, we urge Committee members to adopt the more narrowly defined, controlled exclusion allowed in Section 3 of H.R. 3464. This Section would provide for the exclusion of earned income of a standard work-related expenses disregard of 20 percent of gross earnings.

3. Section 3, exclusion of certain costs of impairment-related expenses including routine drugs or medical services which are necessary for the control of the disabling condition

H.R. 3464 provides for 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*)." [Italics added.]

We urge the Finance Committee to adopt the above language from H.R. 3464 to insure that an exclusion is allowed for the cost of any drugs or medical care necessary to control the disabling condition and thereby allow the individual to work. This specifically is needed to ensure that an allowance is made for those drugs which might be considered by some to be "routine" but which are in fact essential for the control of epilepsy.

We are particularly pleased with that portion of Section 3 of S. 591 which provides for the extension of Medicaid and Title XX Social Services to those individuals who continue to be medically disabled and meet all non-disability-related requirements for SSI eligibility even though their earnings exceed SSI limitations. Under current law, the simultaneous loss of SSI, Medicaid, and Social Services at the point where an individual's earnings exceed the SGA level has proven to be a major work disincentive. S. 591 virtually eliminates the major work disincentives currently operating under the SSI program for disabled people.

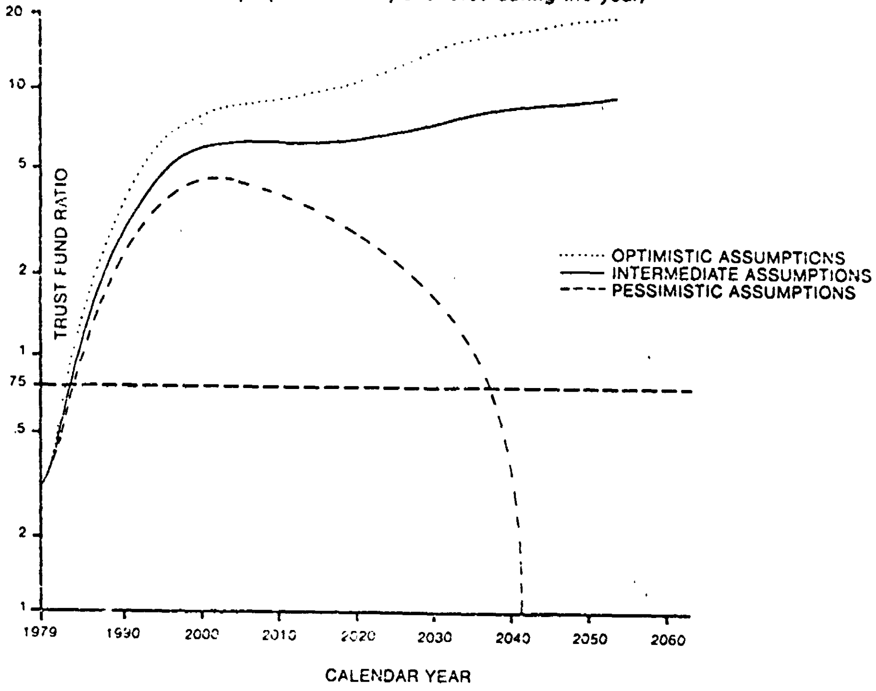
We would like to focus the Committee's attention on one other bill, S. 603, which, in conjunction with S. 591, would provide a smooth, continuous transition mechanism for those disabled individuals leaving the SSI roles and continuing in the work force who reside in a state which has medically needy spend down provisions.

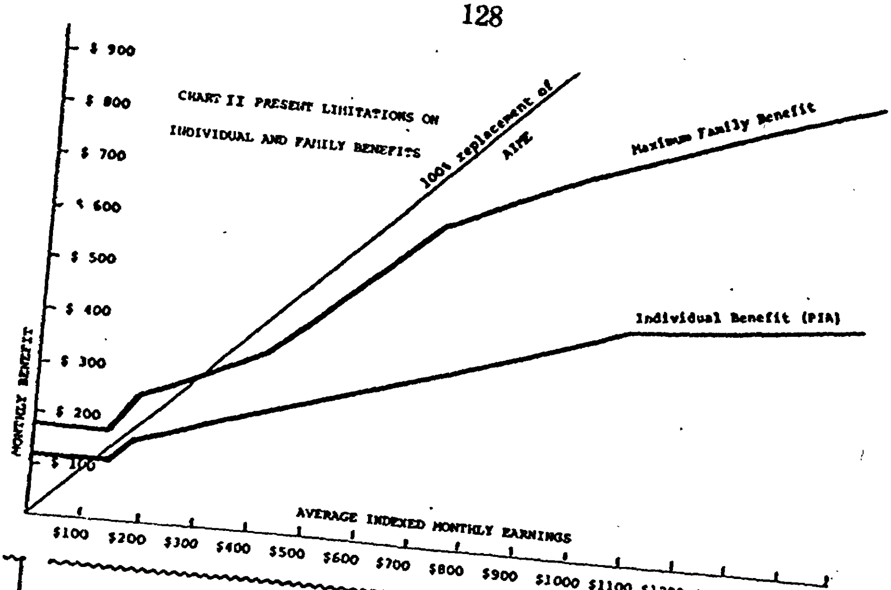
While S. 603 provides for the extension of Medicaid benefits only in certain states, it would allow individuals who become ineligible for Medicaid because of excessive earnings and/or resources but who continue to be medically disabled to retain their health coverage by contributing a portion of their income for such coverage.

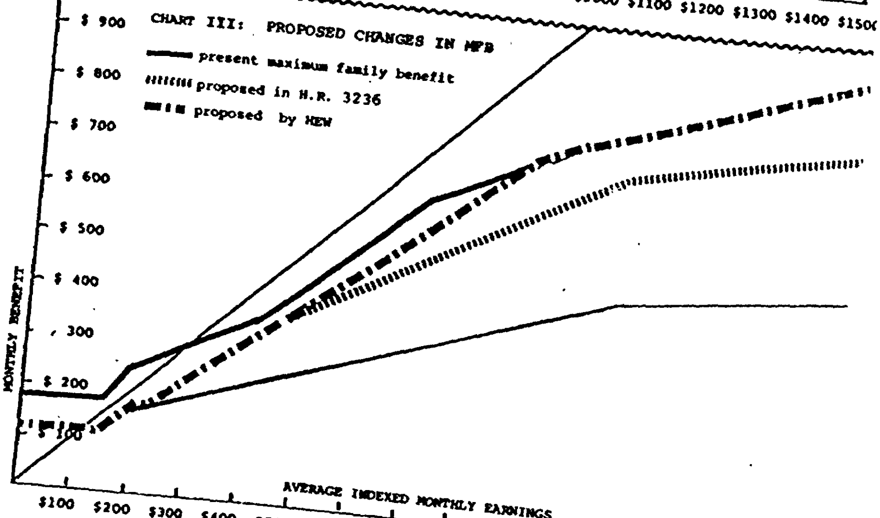
Chart I

ESTIMATED TRUST FUND RATIOS OF THE DI SYSTEM FOR YEARS 1979-2053

(Trust fund balance at the beginning of the year as a proportion of expenditures during the year)







[Whereupon, at 5:30 p.m., the committee adjourned, to reconvene at 2:30 p.m., Wednesday, October 10, 1979.]

SOCIAL SECURITY ACT DISABILITY PROGRAM AMENDMENTS

WEDNESDAY, OCTOBER 10, 1979

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met at 2:45 p.m., pursuant to adjournment, in room 2221, Dirksen Senate Office Building, Senator Russell Long (chairman of the committee) presiding.

Present: Senators Long, Moynihan, Byrd, Dole, and Durenberger.

The CHAIRMAN. Today we have a very heavy schedule, and so we will ask each witness to abbreviate his or her statement. We are going to hear the first four witnesses for 5 minutes each, and there will be additional time for members to interrogate them. Then we will have a panel of Marc Fiedler, Greg Sanders, and Robert Gorski for a total of 15 minutes, and then we will have Mr. Gary Lohn for 5 minutes.

First, we will call on Michael Romig, Director, Human Resources and Employee Benefits, Chamber of Commerce of the United States.

STATEMENT OF MICHAEL ROMIG, DIRECTOR, HUMAN RESOURCES AND EMPLOYEE BENEFITS, CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. ROMIG. Good afternoon, Senator Long, and Senator Durenberger.

My name is Michael Romig, and I am the Director of the Chamber's Human Resources and Employee Benefits Section. With me today is Carol Jackson, who is our Associate Director for Social Security. Both Carol and I work with business and academic leaders in the area of disability and benefits, and whatever knowledge we bring to this committee is based on our work with these people.

We are pleased to have this opportunity to share the views of the business community on the disability insurance program of the Social Security System. We will focus exclusively on H.R. 3236, a bill we support. We believe passage of this legislation would signal to the American public that Congress is able and willing to make some of the tough decisions that lie ahead of it on social security.

These amendments in H.R. 3236 offer reform measures that would reduce social security costs, alleviate many of the documented problems in the program, and help to restore public confidence in social security.

The bill would, among other things, extend the trial work period from 9 to 24 months, removing one of the major return-to-work disincentives. It would extend medicare coverage for an additional 36 months for beneficiaries returning to work on a trial basis, again another major work disincentive. It would limit total disability family benefits to the smaller 80 percent of the worker's average monthly earnings, or 150 percent of the primary insurance amount. Capping the family benefits in this manner will make certain that disability benefits are not better than predisability earnings. Or, to put it another way, this will assure that the state of disability is not more attractive than being self-supporting and a contributor to the economy.

The bill would also reduce the benefits disparity between older and younger beneficiaries by scaling down the number of dropout years according to the age of the disabled workers.

Finally the bill would implement a series of administrative changes to allow for improved accountability and adjudication, a change long overdue.

In our written statement we set forth much of the rationale for our support for H.R. 3236. What I would do at this point is simply highlight some of the problems that we have uncovered with the program.

First of all, the growth of the system has far exceeded all expectations, although in recent years the growth has slowed.

The beneficiary rehabilitation program has not been operating effectively. From 1965 to 1975, the rate at which beneficiaries recovered and returned to work declined from 3 percent to 1.5 percent, levels which in the private sector would be totally unacceptable.

The program contains work disincentives rather than work incentives. For example, the benefits often equal or exceed predisability earnings. Cash and medical benefits are terminated too quickly when beneficiaries attempt to return to work.

The process for determining if an individual is disabled is too confusing, and too cumbersome. There is a high reversal rate at each stage of the process, and the Federal courts are clogged with almost 18,000 disability cases.

We would offer only one improvement to the bill, H.R. 3236, namely, we would suggest that this committee revise the present combined disability insurance and workers' compensation offset from its present maximum of 80 percent to 66.66 percent. This, in our opinion, would be consistent with the thrust of H.R. 3236 toward creating greater return-to-work incentives.

To conclude, we recommend Finance Committee approval of H.R. 3236. This legislation stems from a long and careful study by the Congress, and the Social Security Administration. Its purpose is to provide better return-to-work incentives, and to improve accountability in the claims process. No current beneficiaries would have their benefits reduced, although benefits would be reduced for some future beneficiaries who would otherwise receive benefits that might exceed their predisability income.

Passage of 3236 will reduce the cost of social security. These savings, along with other options before this Congress, can help create the opportunity for Congress to lower social security taxes.

It is not an easy balance to strike between lowering costs, providing adequate benefits, and strengthening benefits for rehabilitation. But H.R. 3236 does just that. Incentives are strengthened, benefits are liberalized, and costs are lowered.

We urge your favorable action on this bill.

Thank you.

The CHAIRMAN. Senator Durenberger, do you have any questions?

Mr. DURENBERGER. No, Mr. Chairman, I have no questions. Thank you.

The CHAIRMAN. Thank you for your statement.

[The prepared statement of Mr. Romig follows:]

STATEMENT ON THE DISABILITY INSURANCE AMENDMENTS OF 1979 (H.R. 3236)

My name is Michael J. Romig. I am Director of the Chamber's Economic Security, Education and Manpower Section. With me today is Carol A. Jackson, Associate Director for Social Security. Both Carol and I work with business and academic leaders knowledgeable about employee benefits.

We are pleased to have this opportunity to share the views of the business community on the disability insurance (DI) program of the social security system. We will focus exclusively on the disability insurance program and the amendments offered under H.R. 3236, a bill we support. By passage of this legislation, Congress would signal the American public that it is able and willing to make the tough decisions necessary for restoring public confidence in a Social Security program that is fiscally sound. Disability insurance reform, as provided in H.R. 3236, is a modest but necessary first step.

Social security disability insurance program

The social security disability insurance program was designed to alleviate financial hardship for workers and their families during times of income loss due to work loss as a result of mental or physical impairments. Originally, the program was expected to serve about one million workers by 1980, but has ballooned beyond all expectations. There are many factors contributing to this result, but before we discuss them, we would point out two key elements to keep in mind.

Definition of disability

First, we would like to restate for the record the definition of disability under social security. Legislatively, the definition has been relatively unchanged since 1965 when the duration requirement was amended, and 1967 when the statutory definition was expanded. That definition now reads:

> 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 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.

"Physical or mental impairment" is defined as an impairment that results from anatomical, physiological or psychological abnormalities what are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

We have no problems with these definitions, as they are structured to assure that individuals are awarded benefits solely on the basis of sound medical findings. But, somewhere down the line beneficiaries have been permitted to view their disability on a "permanent" basis—equivalent to early retirement. To compound the problems caused by prematurely viewing disability with permanence, the revision in the disability definition in 1965, as previously mentioned, liberalized the law to the point of making more people eligible for disability benefits in the last 13 years. The 1965 revision changed the requirement that the impairment be expected to last for "a long, continued, indefinite period" to "at least 12 consecutive months." The basic duration requirement of 12 months does not translate to "permanent." While we are trying to make constructive revisions in the disability insurance program, we must also revise our thinking and perception of disability. Education of the public is essential regarding the nature and scope of social security disability insurance if fundamental changes are to be made and the public's perception corrected.

To further compound matters for DI, many groups (not us) want to liberalize the current definition. That is a step we strongly recommend against.

Role of disability insurance

The second key element to keep in mind is the role of disability insurance. Just as an individual's disability should not be prematurely judged as being "permanent," disability insurance should not be prematurely conceived as "permanent" income. The appropriate role of disability insurance is to provide income for a disabled person and his or her family until that individual is again self-supporting. Disability insurance, like unemployment compensation, should be thought of and publicized as being part of a system of temporary income maintenance. And of course, just as there are exceptional segments among the unemployed for whom jobs programs are targeted, there will be exceptional disability insurance beneficiaries who truly are "permanently" disabled. Yet even for them, DI is only temporary until they reach retirement age, at which time social security provides the requisite income maintenance. Thus, the essential point is that the problems discussed below are reflective of the public misconceptions about the role of DI.

PROBLEMS

There are several aspects of the disability insurance program that could be revised to make it less costly and more effective.

The DI program has grown rapidly, especially in the early 1970's.

> Between 1970 and 1975, the number of disabled worker beneficiaries rose from 1.5 to 2.5 million, an increase of about 11 percent per year. During that same period DI cash benefit outlays almost tripled.
>
> Today over 2.8 million disabled workers and 2.0 million dependents are drawing benefits. Benefit payments will total about $14 billion in calendar year 1979.

This rapid growth has led to concern, in the Congress and elsewhere, that the cost of the program may be too high and that steps should be taken to restrain its growth. For example, last year, before enactment of the social security financing bill, the disability insurance trust fund was projected to run out of money by the end of 1978. (With the 1977 amendments, the trust fund is now projected to remain solvent through the first two decades of the next century, even assuming some growth in the program.)

Return-to-work disincentives

The present DI benefit structure has several work disincentives that should be eliminated. One of the major problems in disability is the fact that benefit levels may constitute a substantial work disincentive. The decoupling legislation still creates a major problem. There is evidence that high replacement rates increase the incidence rates for private group long-term disability insurance policies.

Private insurance plans with replacement rates in excess of 70 percent have disability incidence rates two-thirds higher than the average, and plans with replacement rates below 50 percent have an incidence one-third below average. Because of this experience, private insurers generally attempt to limit disability benefits to 50 or 60 percent of gross earnings. Yet, some beneficiaries still receive excessive benefits. Six percent of 1977 awards actually increased the disabled person's after-tax income. Almost one-fifth of awards produced earnings replacement rates of more than 80 percent. Clearly benefit replacement at these levels is a deterrent to rehabilitation.

The Social Security Subcommittee of the House Ways and Means Committee explored alternatives in this area and suggested that Congress set a benefits limit. The subcommittee recommended limiting family benefits to no more than 80 percent of the worker's average indexed monthly wage or 150 percent of the primary insurance benefit, whichever is lower. (Under current law, the maximum family benefit is 150 percent for workers with the lowest average monthly wages increasing gradually to 188 percent and then tapering off slightly to a level of 175 percent for those at the highest levels.)

Disparities in benefits to older and younger workers

Another subcommittee suggestion with which we concur treats the disproportionately high benefits that are being paid to younger disabled workers, compared to older disabled and retired workers. Decoupling somewhat reduced this problem. However, some disparity still exists because young workers are also allowed to drop out 5 years of low earnings in the benefit calculation, permitting them to base benefits on just a few years of high earnings. The Subcommittee suggests reducing the number of drop-out years on the basis of age.

Failure of rehabilitation effort

Over the years, Congress has enacted provisions to encourage rehabilitation, such as a trial work period for the worker to try new skills, elimination of the waiting period for recurring disability (to encourage short-term employment) and elimination of the waiting period for former childhood disability beneficiaries who again become disabled.

The Social Security Amendments of 1965 provided that disability insurance trust fund money could be used to reimburse the States for the cost of rehabilitation services to disability beneficiaries. Under this provision, the total reimbursement could not in any year exceed 1 percent of the amount of social security disability benefits for the previous year. The Senate Finance Committee report on this legislation stated that only about 3,000 disability beneficiaries were "rehabilitated" in any previous year, mainly because of the lack of state funds to match the available Federal funds. In 1965, Congress was assured by the Department of Health, Education, and Welfare that the money spent on rehabilitation services would actually result in a savings to the disability trust fund as a result of the disabled beneficiaries who would be returned to covered employment as a result of these services. Given a similar assurance in 1972 by HEW that the trust fund was realizing savings due to the money spent on vocational rehabilitation, Congress increased the authorization for use of trust fund money to 1.25 percent for fiscal year 1973 and to 1.5 percent for fiscal year 1974 and subsequent years.

Although the amount of trust funds available for beneficiary rehabilitation has increased from about $15 million in 1967 to almost $100 million in 1976, the bottom line—terminations due to rehabilitation—has been disappointing. Cumulatively over these 9 years, only 20,000 disabled workers who have been "rehabilitated" have been removed from the rolls. This was during a period when the number of disabled workers on the rolls was increasing from 1.5 to 2.5 million.[1] Thus only one-half of one percent left the disability rolls as a result of rehabilitation. That is a dismal record.

Of course, some of this can be attributed to factors such as a lack of employment opportunities during economically depressed times. But, undoubtedly there are other factors such as the rules on substantial gainful activity (SGA) which limit the amount of earned income a disabled recipient may receive before being disqualified. While we do not support an increase in the dollar limit, we believe that a liberalization in the 9-month trial work period could prove to be a greater work incentive. The House has approved a 24-month trial period. Perhaps a more modest extension would work just as well, i.e., an 18-month trial period.

To run a more effective and efficient disability insurance program, work disincentives must be removed and more emphasis placed on recovery and rehabilitation.

H.R. 3236

The Disability Insurance Amendments of 1979 (H.R. 3236) offer reform measures that would reduce Social Security costs, alleviate the problems, and restore public confidence. The bill would:

Extend the trial work period from 9 to 24 months, removing a return-to-work disincentive. This would allow a disability beneficiary adequate time to find out if he/she is able to return to the work force.

Extend medicare coverage for an additional 36 months for beneficiaries returning to work on a trial basis, removing another disincentive. The extension would eliminate the risk involved with this valuable benefit for beneficiaries returning to work on a trial basis.

Limit total DI family benefits to the smaller of 80 percent of a worker's average monthly earnings or 150 percent of the primary insurance amount. "Capping" the family benefits in this manner will make certain that disability benefits are not better than pre-disability earnings; or to put it another way, this will assure that the state of disability is not more attractive than being self-supporting and a contributor to the economy.

Reduce the benefits disparity betwen older and younger beneficiaries by scaling the number drop-out years according to the age of the disabled worker, eliminating a serious inequity, and finally

Implement a series of administrative changes to allow for improved accountability and adjudication, a change long overdue.

The Congressional Budget Office has estimated that H.R. 3236 will save the DI trust funds $241 million in fiscal year 1981, $496 million in fiscal year 1982, $816 million in fiscal year 1983 and $1.1 billion in fiscal year 1984. These savings can

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[1] Committee Print, Ways and Means Subcommittee on Social Security, May 17, 1976.

help guarantee trust fund solvency during the decline in reserves over the next five years.

H.R. 3236 passed the House on September 6 by a vote of 235 to 162. Members of the House have clearly demonstrated their commitment to alleviating the pressing financing problems of the Social Security system. The vote indicates that the majority in the House are willing to face up to the tough decisions that have to be made. We hope that the Senate will demonstrate an equal commitment.

CONCLUSION

We recommend Finance Committee approval of H.R. 3236. This legislation stems from a long and careful study of the problem-plagued disability insurance program by the House Ways and Means Committee and Social Security Administration. Its purpose is to provide better return-to-work incentives and to improve accountability in the claims process. No current beneficiaries would have their benefits reduced—although benefits would be reduced for some future beneficiaries who would otherwise receive benefits that might exceed their pre-disability income.

Passage of H.R. 3236 will reduce the cost of social security. These savings, along with other options before the Congress, would help create the opportunity for Congress to lower social security taxes for the first time in the 40-year history of the program.

It is not easy to strike a balance between lowering costs, providing adequate benefits and strengthening incentives for rehabilitation. H.R. 3236 however, does just that. Incentives are strengthened, benefits are liberalized and costs are lowered.

We respectfuly recommend Finance Committee approval of this legislation.

The CHAIRMAN. We will now call Mr. Gerald S. Parker, vice president, The Guardian Life Insurance Co., on behalf of Health Insurance Association of America.

STATEMENT OF GERALD S. PARKER, VICE PRESIDENT, THE GUARDIAN LIFE INSURANCE CO., ON BEHALF OF HEALTH INSURANCE ASSOCIATION OF AMERICA

Mr. PARKER. Thank you, Senator.

I am also speaking on behalf of the American Council of Life Insurance.

Mindful of your admonition to Commissioner Ross yesterday, I will dispense with the politeness, and dispense with telling you what you already know, and get right to the point. [Laughter.]

We support this bill, H.R. 3236. It does not do everything that we would like it to do, but it is a giant step in the right direction.

I am going to refer to a couple of the exhibits that I put with my full testimony, and I am going to concentrate on arguments that the opponents of this bill raise.

The first question is, does the replacement ratio, the ratio of benefits to previous earnings, actually affect claim costs?

Our exhibit 2 is our basic proof that it does. Fundamentally, what that exhibit shows you is that as long as the replacement ratio, and this one happens to be gross earnings, does not exceed about 60 percent of previous earnings, then the claim costs are in line. This shows you the ratio of actual to expected claims, and expected claims means what we, in the insurance business, expect to pay for the premiums we get. But when the ratio of benefits to earnings get up above 70 percent, the planning ratio doubles from 100-odd percent to 119 percent. Yes; the replacement ratio does make a difference.

The second point is whether or not disabled people actually do recover or can recover. Yes; some of them can if they are motivated.

You will hear many emotional assertions, and probably have already heard some, that the disabled are too crippled, too sick, too old, too poor to return to work. Most of them are, but we are not talking about rehabilitating 50 percent, or even 10 percent. What we hope to do, and what we think this bill might do, is to raise the recovery rate from around 1.5 percent to about 3.5 percent.

When you think that one disabled person of 45 years of age could get benefits of as much as $240,000, say, even without any indexing, 1.5 percent makes a difference.

We are not really talking about the crippled and the paralyzed, the people who have multiple sclerosis and congestive heart failure, although it was observed on the floor of the House that we had a President of the United States for 13 years who could have qualified for disability benefits under social security. But there are things like angina, chest pains. The best doctor with the best electrocardiogram cannot really tell whether that patient has it or does not have it.

The CHAIRMAN. Let me interrupt you for just a second. Did you say that we had a President who could or could not have qualified for total disability benefits under social security?

Mr. PARKER. Who could have qualified, had it been in effect at that time, and so forth.

So, the chest pain may or may not be real.

The CHAIRMAN. We were just speculating on what President that was, and Senator Durenberger said, "Can you think of anybody else who was President for 13 years?" [Laughter.]

I think that he has got the man.

There is pattern of low back pain. No doctor can say that a man either does or does not have low back pain, if a person says that he has it.

There are emotional disorders, the nervous breakdown which can cause a lot of disability, but seems to mysteriously disappear when the benefits stop, or a good job is offered.

We have had a lot of experience with people that had neck injuries in rear endings in automobile accidents over a good many years, and we have observed that the disability has a curious tendency to end when the liability case is settled.

Yes, sir, there is subjective disability and a lot of it. The New York Times on September 22 said that 30,000 inmates in Federal prisons are receiving disability benefits under social security.

The most controversial feature of this bill is the 80/150 cap. I will try to illustrate just what it does at various levels, and I have drawn what I think is a little simpler exhibit, which is my exhibit 1. That exhibit shows you in somewhat simplified terms what really happens.

Column 1 shows you the gross earnings in ranges from about $5,000 to about $75,000 a year.

Column 2 is net after tax earnings, that is after Federal, State, and local income taxes and social security taxes.

Column 3 is the average indexed monthly earnings under the current law annualized, so that you can compare it on an annual basis.

The top half of the sheet is to age 30, and the bottom half is for age 37.

The first point, the notion that long periods of low earnings are penalized, or would be penalized under the proposed law, does not hold up. The average indexed monthly earning exceeds net after tax income up to a gross of about $18,000. The indexing of past earnings is designed to prevent this kind of thing, and it works.

The fourth column shows the maximum family benefit, and the replacement ratio under current law. The point is this—the net replacement ratio of maximum family benefits exceeds 90 percent at age 30, up to about an $11,000 gross income, and 88 percent of about $11,000 at age 37, and it exceeds 80 percent to about the $15,000 level. That is just too much.

Seventy-five percent of net at the $18,000 level is equal to about 60 percent of gross, and that is about the maximum that we find as a break-even point in the insurance that we write.

The third point, under present law the 47-year-old gets as much as 7 percent lower replacement ratio than the 30-year-old, and at most incomes it is 3 to 4 percent lower under present law.

The first column shows you what these replacement ratios would be under H.R. 3236.

The fourth point is, except at the very lowest level, the replacement ratio is not more than 75 percent, and it grades down evenly as the earnings rise, which is what we think social security ought to do.

The fifth point is that the 47-year-old claimant never gets more than 3 percent less than the 30-year-old and in most cases the differential is only 1 or 2 percent, and we think that this is more fair than the present law.

The sixth column is there because this is what the administration originally proposed, a straight 80 percent of average indexed monthly earnings, and some people are still suggesting that this would be a good approach.

The point here is that if you look at the replacement ratio, you will see that it rises from the lowest earnings level and hits its maximum at about the level of the maximum taxable wage base. We think that it is unfair, and it is inconsistent with the social purposes of social security. You should not have the replacement ratio rise as people earn more money.

The CHAIRMAN. I am sorry, sir, but your time has expired. I guess we can allow you 30 more seconds, if you want to take 30 seconds.

Mr. PARKER. This is about what I have got it timed for.

I just want to refer you quickly to exhibit 6, which is a list of the recovery rates under social security from 1960 until 1977. You will see that at the early years, just a couple of years after people first qualified below age 50, when there is a decent possibility of recovery, it went from 1.5 percent up to about 3 percent in 1968. After 1968, it deteriorated, and it got down to 1.5. We believe that this legislation could get it back up to the 2.5 to 3 percent level.

I hope that you will be apprised of our other points in our testimony.

Thank you very much, sir.

The CHAIRMAN. Thank you very much for your statement, and to do it justice, I will have to give it much more study. I assure you I will before we vote on this. I will direct it to the attention of the other Senators, too.

Any questions?

Senator DURENBERGER. No questions.

[The prepared statement of Mr. Parker follows:]

STATEMENT OF THE HEALTH INSURANCE ASSOCIATION OF AMERICA AND AMERICAN COUNCIL OF LIFE INSURANCE ON H.R. 3236 SOCIAL SECURITY DISABILITY LEGISLATION, PRESENTED BY GERALD S. PARKER

Mr. Chairman and Members of the Committee, my name is Gerald S. Parker and I am a Vice President of The Guardian Life Insurance Company of America. I am appearing here today on behalf of the Health Insurance Association of America and the American Council of Life Insurance. Our member companies in these associations write 93 percent of the private health insurance business written by insurance companies in the United States and have 94 percent of the life insurance in force in the United States.

We appreciate the opportunity to appear before your Committee. Our companies have been writing disability income insurance for many, many years, and we believe our experience in this highly technical field can help you in your evaluation of the legislation that has been passed by the House and sent to you.

We support H.R. 3236

We support H.R. 3236. While it does not accomplish everything we should like to see changed in the Social Security disability program, it is a giant step in the right direction. As you know, the Social Security Subcommittee of the House Ways and Means Committee has been giving thorough and thoughtful study to the problems arising from the disability portion of the Social Security Act since 1976. We think it is safe to say that no other public body has yet given this subject the same degree of thoughtful and objective consideration. The unanimous support of this legislation by the Social Security Subcommittee and by the full parent House Ways and Means Committee attests to the quality of the work done in developing the legislation and to the non-partisan approach that was taken.

Outline of the bill

This bill has been thoroughly explained in the material considered by the House and available to you, and it would be pointless for me to take your time with another detailed description. It would encourage rehabilitation of disabled people in a number of ways. It reduces the incentives contained in present law for disabled persons to remain disabled by improving the administration of claims and the uniformity with which they are handled. It reduces the disincentive to recovery by liberalizing the trail work provisions and the Medicare eligibility provisions, particularly those that allow quick requalification for Medicare if a return to work is unsuccessful.

But instead of repeating what has already been said about the reasons why this is good legislation, I should like to comment on the objections that have been raised to it and to discuss the validity or lack of validity of those objections.

Limitation on the maximum family benefits

The portion of this legislation that has drawn the most severe attack by critics is the provision that maximum family benefits will be limited to 80 percent of average indexed monthly earnings (AIME) or 150 percent of primary insurance amount (PIA), which ever is less. The objections raised are along the lines that this provision will chiefly impact the poor, that it will have a disproportionate effect on blacks and other minorities, that it will unfairly affect young workers with low earnings, that forcing people with low earning records to seek Supplemental Security Income (SSI), Aid for Dependent Children (AFDC), or other welfare type help is demeaning to the poor, that is chiefly affects young, severely disabled persons with dependents, and that they are the ones who can least affort it.

This sort of assertion has great emotional appeal and is difficult to answer for that reason. But it needs to be examined to see if it is really valid. In our opinion it is not valid.

Exhibit I attached to this testimony shows you the actual replacement ratios for disabled persons entitled to the maximum family benefits. The exhibit is for disability occurring in 1980. It is based on earnings ranging from $5,000 per year to $75,000 per year in 1978, indexed through 1979. It assumes that 1979 earnings are 7.86 percent greater than 1978 earnings.

The first column shows 1979 gross annual earnings, the second column shows the net after tax annual earnings. Column 3 gives you the assumed AIME's (with one dropout year in the case of a 30 year old and five dropout years in the case of a 47 year old). These are annualized for easy comparison with the first two columns.

The fourth, fifth and sixth columns show the replacement ratios developed by three sets of assumptions. By replacement ratio, we mean maximum family benefit divided by 1979 net after tax earnings Column 4 gives you the replacement ratios provided by current law. At age 30, we now replace 90 percent or more of net after tax earning for all incomes of $10,000 per year or less. The replacement ratio exceeds 80 percent for all incomes of $14,000 per year or less. At age 47, the ratios are sometimes as much as 7 percent lower.

Column 5 illustrates the change that would be effected by H.R. 3236. The maximum family benefit is determined by the 80 percent of AIME rule for 1979 annual earnings of $5,393 and $6,472. Because AIME slightly exceeds net after tax earnings in these income brackets, the percent of AIME is also 80 percent of net after tax earnings. Above $6,000 earnings, the 150 percent of PIA rule applies, and the replacement ratio grades down gradually until it hits 70 percent for the 30 year old at the $15,000 per year level and 18 percent for the tiny group that earns about $80,000 per year. And the 47 year old's replacement ratio is always within 3 percent of the 30 year old's—usually within 1 percent or 2 percent.

Exhibit II attached to this testimony is drawn from group long term disability insurance experience of insurance companies. It demonstrates that 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. The exhibit shows the ratio of actual claims to expected claims with various replacement ratios. Expected claims is the level of claim costs that is assumed in determing premiums, so a ratio of 100 percent would be what a company would expect to achieve when it sets rates.

Note that the 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 to 219 percent—more than double what the premium allowed—when the replacement ratio exceeded 70 percent of gross earnings. A glance at the gross earnings and net earnings columns in Exhibit I makes it clear that net earnings are very little less than gross earnings at the lowest levels. At $12,943 per year in 1979 earnings, the 71 percent of net earnings that would be provided under H.R. 3236 amounts to 60 percent of gross earnings, which is just about the maximum percentage of gross that we in the insurance business think can be insured at the modest income level without incurring excessive losses.

Some opponents of the bill have suggested that they could accept the original Administration proposal, which was a straight 80 percent of AIME cap without the reduction to 150 percent of primary insurance amount. Column 6 illustrates the effect of this scheme. We think that you will agree that it does not accomplish the proper social purpose. It starts at the same point as H.R. 3236 with 80 percent replacement ratio for the lowest income people, but the replacement ratio climbs constantly until it reaches 91 percent for those who earn $18,000 in 1979. After that, it gradually declines for those who are over the maximum taxable wage base. This formula will always reach the maximum replacement ratio at the level of the maximum taxable wage base. We think that you will agree that this approach would really be unfair to the lowest income people. It would also produce a powerful disincentive to recovery among people able to earn $10,000 to $20,000 a year—especially the many in those brackets with private disability insurance.

But what of the assertion that the proposal of H.R. 3236 will reduce the already small incomes of the very lowest people on the economic scale and will hit them the hardest? We do not believe that a disabled beneficiary and his two or more dependents can exist on the $375 per month that produces under present law a 90 percent replacement at the $5,000 annual earning level, or the $456 per month that produces a 90 percent replacement ratio at the $6,000 per year earnings level. In fact, we don't really think that those families could have survived before the disability on monthly earnings of $400 or $500 after taxes. They are at or below the poverty line.

We believe that such families are usually getting some public assistance, even without disability. We believe that such public assistance should be continued. The effect of this legislation is not to deprive such families of benefits they would otherwise have; rather, it is simply to shift some of the burden from the Social Security system to Supplemental Security Income and Aid To Dependent Children. Thus, it will have the effect of shifting some of the cost from the Social Security tax to the general revenues without compromising the essential integrity of the payroll tax financing of Social Security.

The overall financial effect of H.R. 3236 when fully effective is a reduction in the cost of the disability program of approximately one-quarter of 1 percent of taxable payroll.

Exhibits III and IV to our testimony contain the full back up figures to the replacement ratios shown in Exhibit I including the basis for deductions, federal income tax, FICA tax, state and local taxes, AIME, and PIA figures.

Effect of reducing replacement ratios

Another assertion often made about the cap on family benefits is that reducing replacement ratios will not really have any effect on the benefit costs, because the people who are the beneficiaries are so severely disabled that most of them could never work again anyway.

It is asserted that the bill is based on a wrong premise to the effect that any disabled person can be rehabilitated to earn at least the substantial gainful activity limit, now $280 per month.

The assertion that most of the Social Security disability beneficiaries are in the older age groups, are severely disabled, and have low skills, and are not likely to resume gainful activity is, of course, correct. In fact, the percentage who can never be expected to resume gainful activity is undoubtedly much more than 90 percent. But as we have learned in the private disability income business, a very small percentage of disabled persons, even one or two percent, who can be motivated to recover to gainful activity instead of remaining disabled will have a very enormous effect on the benefit cost of our policies. The younger the disabled person is who can recover, the greater will be the effect.

People who assert that most of the beneficiaries are too disabled to recover to do gainful work are thinking in terms of those with severe heart conditions that cannot tolerate any activity, multiple sclerosis victims, stroke victims, people so crippled with arthritis that they are nearly helpless. And about such persons, of course they are right. Although, as was pointed out in the House, we had a President of the United States for 13 years who could have qualified for Social Security disability benefits under the medical listings.

But those who are not familiar with the administration of disability claims do not realize what a high percentage of disabilities can be subjective in nature. It is, in fact, virtualy impossible for a physician with all the best electro-cardiographic information available to tell whether a person has or has not anginal chest pains. No physician can with certainty determine that a person does or does not have back pain.

Then there are the disabilities that arise from emotional problems. Some people are just emotionally unable to put in a full day's work, particularly at a job they don't like, when disability benefits are available. These kinds of disabilities are, as you might imagine, among those most affected by the unemployment rate, On September 22nd, a New York Times article reported that 30,000 inmates in state and Federal prisons are receiving Social Security disability benefits.

Exhibit V illustrates the difference by cause of disability between the experience under our Social Security law and the Social Security disability benefits in the Netherlands, where the replacement ratios are even higher than ours. You will see that the subjective kinds of disability are on even higher percentage in the Netherlands than they are in this country, and that in both countries they are increasing as a percentage of the causes of loss. You will also see the dramatic effect of high replacement ratios.

Those who assert that replacement ratio does not affect claim costs are telling you what they believe because they would like it to be the case. The facts are that the replacement ratios do very dramatically affect the claim costs. Private actuaries and Social Security Administration actuaries are agreed on this.

Mr. Panetta of California, speaking on the floor of the House in the debate on this measure, pointed out that the average replacement ratio of previous wages had increased by 50 percent between 1967 and 1976. And over the same period, the recovery rate decreased by 50 percent. The drop in the recovery rate was particularly apparent after the passage of the 1972 amendments which resulted in the double indexing and grossly excessive replacement rates that were corrected in large part by the 1977 amendments.

Exhibit VI is taken from table 1 on page 5 of the Social Security Bulletin for April 1979. It illustrates the change in recovery rates, from 1960 through 1977. Prior to 1960, no one qualified for disability benefits until age 50; consequently, very few were ever able to recover. The age 50 limitation was removed in 1960, and as more younger beneficiaries came on the rolls the recovery rate climbed rapidly through 1967, then pretty much stablized through 1971.

The table clearly shows how the combination of the 1972 amendments, the less intensive follow up of claim determinations by the Social Security Administration at that time, and the recession of 1974 and 1975 combined to cut the recovery rate nearly in half. The table also shows the beginning of the sharp reversal of that unfortunate trend that has occurred since 1976. We are told that the recovery rate continued to improve in 1978, and we believe that it will have continued to improve in 1979.

The recession we appear to be entering will definitely impact recovery rates adversely if it results in material unemployment. But we are convinced that the enactment of H.R. 3236 will help decisively in getting the recovery rates back to the area of 25-30 recoveries per thousand per year that was achieved in the late 1960's, and perhaps higher.

Exhibit II is our basic illustration of the effect of replacement ratio on claim costs.

We believe that it is in the best interest of a disabled person to encourage him to resume active, gainful employment. Usually, his life will be lengthened, his income will be improved, and his sense of personal worth will be far better. A reasonable cap on the replacement ratio will help achieve this, and we believe it is a most desirable feature of this legislation;

Reduction in the number of dropout years

Some critics have suggested that the number of dropout years ought not to be reduced for the younger beneficiaries, because younger disabled persons are entitled to larger disability benefits than older ones since they will not have the opportunity to increase their earnings as time goes on. We think older beneficiaries who have contributed for many years to provide benefits for their juniors should not then be given sharply lower benefits when it becomes their turn to suffer misfortune.

A brief look at Exhibit I and a comparison of the replacement ratios clearly shows you that the young beneficiary would still be favored over the older beneficiary, although less so. Furthermore, his benefits remain indexed. They will be increased to keep up with the CPI as long as he remains disabled.

Furthermore, the future rate of increase of wage rates may or may not exceed the rate of increase in the cost of living. If inflation continues at present levels, we shall all have to accept lower living standards. If that happens, the incomes of people receiving benefits will climb faster than wages, not slower. And if wages do increase faster than living costs, the difference will be small.

Will cutting benefits actually reduce the number of people who become disabled or will it just place more financial burdens on them

We believe that a cap on replacement ratios will reduce the number of people who qualify for benefits to some extent, but the important thing it will do is to encourage many more who do become disabled and do qualify for benefits to recover and resume active work. This is particularly likely in the light of the amendments that deal with the availability of Medicare. The loss of Medicare on recovery and the requirement of waiting an additional two years of disability for requalifying is a powerful disincentive to any attempt at rehabilitation under present law. With the passage of this bill, a person who makes an unsuccessful attempt, or a temporary successful attempt, to be a productive worker, but then relapses to disability will immediately requalify for Medicare. The importance of this amendment cannot be overstated.

Claim administration

The portions of the bill that deal with claim administration will tend to increase the proportion of claims that are approved at the initial stage and decrease the proportion that must go to appeal. We believe that the improved uniformity of administration that would be possible with implementation with this legislation is very desirable. The administration of claims in the various states varies so widely today that it is inherently unfair to many, many claimants.

It is asserted that the Social Security Trust Fund is not in a financial bind now, so there is no need to reduce benefits

Taxpayers are in a financial bind, however, and there is considerable pressure to reduce taxes. If no Social Security benefit can ever be cut, the implications for the economy and the public good when the number of beneficiaries reaches one half the number of contributing workers are dreadful to contemplate.

It is true that the Social Security disability claim rate has improved substantially since 1976. We suggest that this has taken place because we have been in a period of essentially full employment of employable people. The proportion of the population employed has never been higher. The unfortunate unemployment we have suffered has been mainly among those who are unemployable or virtually unemployable because of educational and other deficiencies. We fear that the Social Security disability costs will rise again precipitously if the current recession results in the kind of unemployment level we experienced in the 1974-1975 recession. Disability benefits are cyclical and do vary very radically with the level of unemployment.

Furthermore, as Mr. Pickle pointed out during the debate on the floor of the house, one reason the Disability Fund is in much better shape today in that Congress transferred some nine billion dollars from other trust funds to the Disability Trust Fund over the last three years. Had this not been the case, the picture would be much less favorable today.

Are average indexed monthly earnings fair? They include the effect of low wages many years ago

A review of Exhibits II and III will show you that average indexed monthly earnings actually exceed net after tax 1979 monthly earnings up to the level of the maximum taxable wage base. Indexing past wages protects beneficiaries very effectively from the drag of low wage rates in years past. And it protects those at the lower half of the earnings scale particularly well.

It is sometimes asserted that disabled people need more income then they did before they became disabled in order to maintain their living standards

While disabled people may not be able to paint their houses, cut grass, etc., neither do they have to buy uniforms, pay the cost of getting to work, own second cars, etc.. Actually a disabled person usually has somewhat reduced living expenses. In these days of high energy cost, the cost of transportation to work can be as much as 10 percent or 15 percent of gross earnings.

SPECIAL GROUPS

There are assertions that this legislation would adversely affect certain special interest groups. For example, public employees have opposed the legislation on the grounds that it could possibly federalize state and municipal employees. There is nothing in the bill that would do that.

It is asserted that the bill would be particularly harsh on people with multiple sclerosis as it would not encourage them to take on any part time work or sheltered work without losing their benefits. We believe the bill could encourage these people to work for a while, but we agree that it doesn't go far enough. HIAA recommendations to the House Social Security Subcommittee included a proposal for greater benefits based on partial degrees of disability during rehabilitation efforts. We should like to see this included in future legislation, but we support this bill as a necessary and desirable first step now.

It is asserted that young farmers are in an extra hazardous occupation and would be condemned to poverty by lower disability benefits. We suggest that young disabled farmers are exactly the kind of people who can be helped to again become productive by this bill. Rehabilitation efforts to fit them for work other than farming could make a particularly high portion of young disabled farmers productive administrative workers. The fact that a man can't drive a tractor, clean cattle stalls, or handle a belligerent bull does not mean that he cannot be an effective and well paid office worker.

It has been asserted that this bill would produce lower benefit levels after age 65. As we read the bill, it does not affect retirement benefits payable at age 65 or later.

It is asserted that the bill would alarm current contributors and beneficiaries with fears that their benefits may be cut in the future. We believe that the people who are most alarmed at present are the taxpayers who are apprehensive about the levels to which their taxes will rise if their Social Security benefits are not restrained. This bill does transfer a small portion of the cost of meeting the needs of lowest income people to the general revenues by shifting some costs to SSI and AFDC.

It has been pointed out that the legislation would result in a higher maximum family benefit for the survivors of a dead worker than for a disabled worker and his family. In some cases, this could be true. But it is not altogether unjust. Often, a disabled person can act as a babysitter and look after the safety of children while the spouse is able to work. And in fact, in most cases where a disabled parent is drawing Social Security disability benefits and the spouse is working, the net family after-tax income is greater than it was before the disability started, because Social Security is income tax free, and the working spouse's tax bracket is reduced.

We should like to endorse the remarks of the floor of the House in support of this bill. In particular, the remarks of the sponsor, Congressman Pickle, are most appropriate. But we will spare you the repetition and ask that you give your attention to his remarks and that of other sponsors as reported on the floor of the House in the Congressional Record for September 6, 1979.

SGA levels

I should like to turn very briefly to H.R. 3464, the bill that raises the SGA levels for SSI. This bill is similar to H.R. 12972 of the last Congress about which I testified before Senator Moynihan's subcommittee on Public Assistance a little over a year ago.

As I hope I have made clear in the past few minutes, we are very much in favor of legislation designed to motivate people to be productive and produce earnings by their own efforts, and we recognize that this is the major purpose of H.R. 3464. However, we do share all the concerns that were expressed by Congressman Pickle in his discussion of the legislation on the floor of the House as reported in the Congressional Record for June 6, 1979. We are afraid that some of the features of this legislation that are designed to motivate people to work may actually motivate some not to work. For example, many people are working in spite of being disabled according to the medical listings. They do so in part because they aren't sure that they will be considered disabled and thus eligible for Social Security and are unwilling to stop working and lose their income for six or seven months while the matter is being determined. But suppose such a person is earning an amount that is a little above the SSI "break even point" and decides to reduce his earnings by $100 per month in order to become eligible for $100 a month of SSI benefits. Since the applicable definition of disability is the same, qualification for the $100 per month of SSI benefits would assure him that he would also qualify for Social Security benefits. Then he could reduce his earnings drastically below the SGA level or even discontinue work entirely, qualify for Social Security benefits, and also receive enough SSI to bring his income back to about the level he enjoyed before discontinuing his efforts, and most of it tax free.

If this scenario were to be translated into reality in the case of a fair number of people, the financial impact would reach far beyond SSI and could impact Social Security Disability benefits very heavily.

While there are many parts of this legislation that we would favor, we do urge caution and suggest that more study of it should be given. Like Mr. Pickle, we seriously doubt that this country is really prepared to pay SSI benefits intended for the totally disabled persons who can earn $686 a month, especially when Social Security disability benefit recipients are limited to $280 a month.

We thank you very much for your attention. We will be happy to answer any questions you may have.

EXHIBIT 1

SOCIAL SECURITY NET EARNINGS - REPLACEMENT RATIOS PRODUCED BY VARIOUS FORMULAE - APPLIED TO AIME AND PIA

DISABILITY IN 1980 AT AGE 30

1979 GROSS EARNINGS	1979 NET EARNINGS	ASSUMED AIME ANNUALIZED 1 DROPOUT YEAR	MAXIMUM FAMILY BENEFIT REPLACEMENT RATIO OF NET, AFTER TAX EARNINGS CURRENT LAW	HR 3236	ADMIN PROPOSAL (80% OF AIME ONLY)
(1)	(2)	(3)	(4)	(5)	(6)
$ 5,393	$ 5,022	$ 5,052	90%	80%	80%
6,472	6,017	6,060	90%	80%	80%
7,550	6,984	7,068	90%	76%	81%
8,629	7,818	8,080	92%	76%	83%
10,786	9,436	10,104	90%	73%	86%
12,943	10,998	12,132	85%	71%	88%
15,100	12,543	14,148	82%	70%	90%
18,336	14,787	16,896	75%	63%	91%
21,572	17,262	17,664	67%	55%	82%
26,965	21,216	17,856	55%	45%	67%
32,358	25,034	17,856	46%	38%	57%
37,751	28,783	17,856	40%	33%	50%
53,930	38,957	17,856	30%	25%	37%
80,895	54,023	17,856	21%	18%	26%

DISABILITY IN 1980 AT AGE 47

1979 GROSS EARNINGS	1979 NET EARNINGS	ASSUMED AIME (Annualized)	MAXIMUM FAMILY BENEFIT REPLACEMENT RATIO OF NET, AFTER TAX EARNINGS CURRENT LAW	HR 3236	ADMIN PROPOSAL (80% of AIME)
$ 5,393	$ 5,022	$ 5,016	88%	80%	80%
6,472	6,017	6,024	88%	80%	80%
7,550	6,984	7,020	88%	77%	80%
8,629	7,818	8,028	90%	75%	82%
10,786	9,436	10,032	89%	72%	85%
12,943	10,998	12,048	84%	71%	88%
15,100	12,543	13,512	79%	68%	86%
18,336	14,787	14,616	70%	60%	79%
21,572	17,262	14,916	60%	52%	69%
26,965	21,216	14,988	49%	42%	57%
32,358	25,034	14,988	42%	36%	48%
37,751	28,783	14,988	36%	31%	42%
53,930	38,957	14,988	27%	23%	31%
80,895	54,023	14,988	19%	17%	22%

EXHIBIT II.—GROUP LONG-TERM DISABILITY INSURANCE

[6-month elimination period; calendar year of issue excluded; all ages, males, females, and sex unknown combined—calendar years of experience 1969-73]

	Life years exposed	Ratio of actual to expected claims (percent)
Ratio of gross benefit (before reduction for integration) to salary:		
Always less than 50 percent	16,326	52
Generally less than 50 percent	45,655	118
Subtotal (less than 50 percent)	61,981	99
50 percent (exactly or approximately)	628,803	87
Always more than 50 percent, exact percent unknown	36.648	148
Generally more than 50 percent, exact percent unknown	32,877	153
More than 50 percent, but less than or equal to 60 percent	513,924	93
More than 60 percent but less than or equal to 70 percent	56,687	106
More than 70 percent	23,840	219
Subtotal (greater than 50 percent)	713,976	109
Other, including not determinable	64,162	71
Total salaried, nonexecutive	1,468,922	97
Other income sources included in plan integration provisions:		
Nonintegrated (benefits paid in addition to social security)	440,194	110
Social security primary benefit only deducted	248,824	97
Social security primary and family benefit deducted	761.021	91
Other integration bases	18,883	77
Total salaried, nonexecutive	1,468,922	97

Source: Transactions of the Society of Actuaries, 1975 Reports Number, p. 266 and 267.

EXPLANATION OF EXHIBIT II

In underwriting commercial disability insurance, insurance companies try to insure no more than about three forths of net after tax income of workers. Where the benefits are a higher proportion of earnings, incentive to recovery is seriously reduced, because normal living expenses during disability are often reduced by the decreased need for transportation, clothing, meals away from home, etc. Taxes are somewhat lowered due to lower net income. Personally purchased disability income benefits and Social Security benefits are not subject to income tax. (During 1969 through 1973 when the attached table was put together, the first $100 per week of sick pay provided by employers was generally tax exempt also).

To accomplish this, most employee disability plans seek to insure between 50 percent and 60 percent of gross pay, acting on the assumption that this will usually amount to about 75 percent to 80 percent of net after tax earnings.

The table demonstrates that, in general, the higher the percentage of pre-tax earnings provided by disability insurance, the higher the ratio of claims actually experienced to those expected. Expected claims means the claims anticipated in developing the premium rates. Therefore, a ratio of 100 percent would indicate that the planned levels of claims had been experienced. Notice that the range of difference is from 52 percent to 219 percent in a pretty consistent relationship to the percentage of earnings insured.

The second part of the table analyzes the effect of integration with Social Security and income form other sources. The more the disability benefits are reduced by integration as other benefits become payable, the lower the ratio of the actual to expected claims. Where there is no integration or reduciton of benefits on account of Social Security and other sources, the level of claims was 10 percent higher than expected.

EXHIBIT III

SOCIAL SECURITY NET EARNINGS - REPLACEMENT RATIOS PRODUCED BY VARIOUS FORMULAE - APPLIED TO AIME AND PIA DISABILITY IN 1980 AT AGE 30

GROSS EARNINGS										
1978 ANNUAL	1979 ANNUAL	1979 MONTHLY	DEDUCTIONS (1)	% OF GROSS	FEDERAL INC. TAX	FICA TAX (1979)	STATE & LOCAL (2) INC. TAX	1979 NET EARNINGS ANNUAL	1979 NET EARNINGS MONTHLY	ASSUMED AIME (3) 1 DROPOUT YEAR
5,000	5,393	449	3,400	0%	-0-	331	40	5,022	419	421
6,000	6,472	539	3,400	0	-0-	397	58	6,017	501	505
7,000	7,550	629	3,400	0	21	463	83	6,984	582	589
8,000	8,629	719	3,400	0	172	529	110	7,818	651	674
10,000	10,786	899	3,400	0	500	661	189	9,436	786	842
12,000	12,943	1,079	3,400	0	872	793	280	10,998	916	1,011
14,000	15,100	1,258	3,400	0	1,260	926	372	12,543	1,045	1,179
17,000	18,336	1,528	3,400	0	1,916	1,124	510	14,787	1,232	1,408
20,000	21,572	1,798	4,746	22	2,319	1,322	668	17,262	1,439	1,472
25,000	26,965	2,247	5,663	21	3,414	1,404	932	21,216	1,768	1,488
30,000	32,358	2,696	6,472	20	4,725	1,404	1,195	25,034	2,086	1,488
35,000	37,751	3,146	7,550	20	6,105	1,404	1,459	28,783	2,399	1,488
50,000	53,930	4,494	10,786	20	11,320	1,404	2,250	38,957	3,246	1,488
75,000	80,895	6,741	16,179	20	21,901	1,404	3,568	54,023	4,502	1,488

CURRENT LAW				HR 3236		ADMIN. PROPOSAL	
				CAP - 80% OF AIME OR 150% OF PIA 1 DROPOUT YEAR		CAP - 80% OF AIME ONLY (6) 1 DROPOUT YEAR	
PIA 5 DROPOUT YEARS	RR% OF (4) NET EARNINGS 5 DROPOUT YEARS	MFB (4) 5 DROPOUT YEARS	MFB - RR% OF NET EARNINGS (4) 5 DROPOUT YEARS	MAXIMUM BENEFIT	RR% OF NET	MAXIMUM BENEFIT	RR% OF NET
249	59%	375	90%	337 (5)	80%	337	80%
276	55%	456	90%	404 (5)	80%	404	80%
303	52%	524	90%	442	76%	471	81%
331	51%	599	92%	492	76%	539	83%
386	49%	707	90%	572	73%	674	86%
440	48%	780	85%	653	71%	809	88%
489	47%	856	82%	730	70%	943	90%
528	43%	924	75%	781	63%	1,126	91%
547	38%	957	67%	796	55%	1,178	82%
553	31%	967	55%	799	45%	1,190	67%
553	26%	967	46%	799	38%	1,190	57%
553	23%	967	40%	799	33%	1,190	50%
553	17%	967	30%	799	25%	1,190	37%
553	12%	967	21%	799	18%	1,190	26%

EXHIBIT IV

SOCIAL SECURITY NET EARNINGS - REPLACEMENT RATIOS PRODUCED BY VARIOUS FORMULAE - APPLIED TO AIME AND PIA DISABILITY IN 1980 at age 47

GROSS EARNINGS										
1978 EARNINGS LEVEL	1979 GROSS EARNINGS ANNUAL	MONTHLY	DEDUC- TIONS (1)	% OF GROSS	FEDERAL INC. TAX	FICA TAX (1979)	STATE & LOCAL INC. TAX (2)	1979 NET EARNINGS ANNUAL	MONTHLY	ASSUMED AIME (3)
5,000	5,393	449	3,400	-0-	-0-	331	40	5,022	419	418
6,000	6,472	539	3,400	-0-	-0-	397	58	6,017	501	502
7,000	7,550	629	3,400	-0-	21	463	83	6,984	582	585
8,000	8,629	719	3,400	-0-	172	529	110	7,818	651	669
10,000	10,786	899	3,400	-0-	500	661	189	9,436	786	836
12,000	12,943	1,079	3,400	-0-	872	793	280	10,998	916	1,004
14,000	15,100	1,258	3,400	-0-	1,260	926	372	12,543	1,045	1,126
17,000	18,336	1,528	3,400	-0-	1,916	1,124	510	14,787	1,232	1,218
20,000	21,572	1,798	4,746	22	2,319	1,322	668	17,262	1,439	1,243
25,000	26,965	2,247	5,663	21	3,414	1,404	932	21,216	1,768	1,249
30,000	32,358	2,696	6,472	20	4,725	1,404	1,195	25,034	2,086	1,249
35,000	37,751	3,146	7,550	20	6,105	1,404	1,459	28,783	2,399	1,249
50,000	53,930	4,494	10,786	20	11,320	1,404	2,250	38,957	3,246	1,249
75,000	80,895	6,741	16,179	20	21,901	1,404	3,568	54,023	4,502	1,249

CURRENT LAW				[illegible] 3236 CAP 80% OF AIME OR 150% OF PIA		ADMIN. PROPOSAL CAP OF 80% OF OF AIME ONLY	
PIA	PIA - RR% OF NET EARNINGS	MFB	MFB - RR% OF NET EARNINGS	MAXIMUM BENEFIT	RR% OF NET	MAXIMUM BENEFIT	RR% OF NET
246	59	369	88	334 (4)	80%	334	80%
273	54	441	88	402 (4)	80%	402	80%
299	51	513	88	448	77%	468	80%
326	50	586	90	489	75%	535	82%
379	48	699	89	569	72%	669	85%
433	47	771	84	650	71%	803	88%
472	45	827	79	708	68%	901	86%
492	40	862	70	739	60%	974	79%
496	35	869	60	744	52%	994	69%
497	28	870	49	746	42%	999	57%
497	24	870	42	746	36%	999	48%
497	21	870	36	746	31%	999	42%
497	19	870	27	746	23%	999	31%
497	11	870	19	746	17%	999	22%

(1) Per IRS statistics for 1976 as reported in CCH Rewrite Bulletins, 2 August 1978, smoothed

(2) Uses Virginia as an estimated average: Exemptions: Four @ $600; Deductions: 15% - all incomes (ignoring $2,000 limit for standard deduction if not itemized)

Rates on taxable income:

1st	$3,000	2%
Next	2,000	3%
Next	7,000	5%
Excess		5.75%

(3) Basis of AIME Assumptions - 1977 and prior earnings of those earnong $17,000 p/a or less in 1978 were indexed according to the AIME adjustment factors

Those earning $20,000 or more in 1978 always had maximum taxable wage or more.

(4) 80% of AIME. Above this income, 150% of PIA applies

EXHIBIT V

COMPARISON OF DUTCH WITH UNITED STATES STATISTICS ON DISABILITY

In Table 1 a comparison is made between the 1974 disability incidence rates in the Netherlands and the corresponding rates in the United States by sex and age group. Overall, the disability experience in Holland is more than three and a half times that of the Social Security DI system in the United States, a nearly incredible statistic. The Netherlands plan involves an elimination or deferment period of twelve months compared to the five months under the DI program. On the other hand the Dutch workers are entitled to parital benefits, which account for about one sixth of the total claims, roughly offsetting the effect of the longer deferment of benefits.

The plan in the Netherlands has a fixed replacement ratio of 80 percent based on gross earnings. Since the benefits are taxable, this probably corresponds to an after-tax replacement ratio of about 82 percent, the tax rate or 80 percent of a given level of income being somewhat less than that on 100 percent. It has been shown on Exhibit II that, according to United States group disability experience, such ratios give rise to an excessive number of claims.

The data from Holland also support the proposition that an analysis of claims by diagnosis can be used to ferret out areas where malingering, fraudulent claims, lax administration, or biased adjudication of claims may be a problem. In Table 2 a comparison is made between the two countries for important diagnostic groups, viz. musculoskeletal disorders, mental disorders, diseases of the circulatory system, and neoplasms (cancer). It will be noted that, whereas the incidence of cancer in Holland is less than that in the United States, and that of circulatory disease is also 75 percent higher, the incidence of musculoskeletal disorders, which include back pain, is 5-6 times that in the United States. The corresponding ratio for mental disorders is 5 to 1. In many cases of these latter conditions, disability can neither be proved nor disproved by clinical tests. On the other hand, cancer and many circulatory diseases are subject to much more precise diagnosis, supported by laboratory tests and other objective means.

TABLE 1.—COMPARISION OF DISABILITY INCIDENCE RATES PER 1,000 IN THE UNITED STATES AND THE NETHERLANDS

[1974 EXPERIENCES]

Ages	Men			Women		
	USA	NL	Ratio (percent)	USA	NL	Ratio (percent)
20 to 24	1.46	5.40	370	.60	5.00	833
25 to 34	2.00	8.00	400	1.41	13.40	950
35 to 44	4.17	16.00	384	3.84	24.80	646
45 to 49	7.83	26.30	336	6.81	32.90	483
50 to 54	13.02	40.50	311	11.15	45.40	407
55 to 59	23.09	55.40	240	18.66	56.50	303
60to 64	32.99	103.60	314	19.74	84.50	428
Average [1]	7.49	22.90	306	5.80	27.62	476

[1] Standardized average claim rates based on United States 1974 estimated exposures.

Sources: USA—Unpublished rates furnished by the Office of the Acturary, SSA; The Netherlands—published report for 1974.

TABLE 2.—COMPARISON OF UNITED STATES AND DUTCH DISABILITIES BY DIAGNOSTIC GROUP

Diagnostic group	Disabilities in The Netherlands—1974		
	Actual number	Number expected on the basis of U.S. 1972 experience	Ratio (percent)
Circulatory system	8,508	4,870	175
Mental disorders	9,029	1,790	504
Musculoskeletal system	13,873	2,473	561
Neoplasms	1,140	1,416	81

Note A.—The sources are the same as for table I. The data for The Netherlands were not separated by sex, age and diagnostic group. The latest United States data were for 1972. To base the comparison on the same age and sex distribution, the actual United States incidence rates by sex, age group and diagnostic group were applied to the 1974 exposures in The Netherlands. Were 1974 United States data available, the ratios shown above would generally be somewhat lower. However, the significance of this comparison is in the contrast between the high ratios for the more subjective causes, as compared to the much lower ratios for cancer and circulatory disorders.

Note B.—This exhibit has been adapted from the report of John H. Miller, F.S.A., consulting actuary, to the Committee on Ways and Means of The U.S. House of Representatives, contained in the record of the public hearings before the Subcommittees on Social Security, May and June 1976.

EXHIBIT VI.—*Changes in recovery rates of social security disability beneficiaries—1960-77, per 1,000*[1]

Year:		Year:	
1960	7.6	1969	28.3
1961	5.6	1970	28.4
1962	14.7	1971	27.4
1963	16.6	1972	22.4
1964	17.4	1973	19.2
1965	19.1	1974	17.9
1966	22.1	1975	16.5
1967	32.3	1976	15.5
1968	30.5	1977	21.8

[1] Ratio of those recovered to average of those on the rolls at beginning and end of year.

Source: Social Security Bulletin, April 1979, page 5, Table I.

The CHAIRMAN. Now we will hear from Wilbur J. Cohen, chairman of the SOS Coalition to Protect Social Security.

You are chairing all kinds of things. I did not know that you were the chairman of SOS. [Laughter.]

Mr. COHEN. I have a different hat on today, Senator. I am here representing some 150 organizations, representing the disabled and the aged, and the blind, and other organizations.

The CHAIRMAN. Did we ever get your other Commission extended, the one we talked about the last time I spoke with you?

Mr. COHEN. Yes, sir. That is a different hat, though.

The CHAIRMAN. I thought that we had gotten that one taken care of.

Mr. COHEN. Yes, sir, but I don't think the President has signed the bill yet.

The CHAIRMAN. We have done all the damage we can do down here. [Laughter.]

STATEMENT OF WILBUR J. COHEN, CHAIRMAN, SOS COALITION TO PROTECT SOCIAL SECURITY

Mr. COHEN. I am here today to express both my support for many of the provisions in these two disability bills, but also to object very strenuously to certain provisions in them.

With regard to the disability insurance provisions, I strongly favor the Durenberger bill as against the bill that passed the House of Representatives. I believe Senator Durenberger has presented the more constructive provisions in his bill.

I will briefly, after my testimony is put in the record, indicate my points.

First I want to say that although I differ strongly with Congressman Pickle's support of 3236, I think his comment in his dissenting report on H.R. 3464 regarding the same substantially gainful activity level for both SSI and OESI ought to be carefully reexamined by this committee.

While it might be proper to have a more liberal standard for SSI than for the insurance program, I believe you ought to reexamine that first to see if that is really what you want to do, because if you go in that direction of making the SSI continually more liberal than the insurance program, then you ultimately always raise the question, "What is the value of people contributing to the insurance program, when they can do better in the welfare program?"

So while I think there is some justification for it, I would like you to reexamine Mr. Pickle's point on that, and if you so decide that you want to make it more liberal, then I think you are going in a direction which ultimately will mean more Federal general revenue costs.

With regard to H.R. 3236, while I favor many of the provisions in the bill, which are very constructive and needed, there are two provisions, as you have already heard, sections 2 and 3, which all of the disabled and blind groups in the United States are vigorously opposed to. They are the three provisions, the 150 percent cap, the 80 percent of lifetime earnings, and the reduction in the benefits for young workers.

Now these three cutbacks in the bill are very serious cutbacks and, in my opinion, before you enact them you should give very careful consideration to what their implications are. Let me just touch briefly on the three of them.

The first one, Senator, the 80 percent of your lifetime earnings had a good deal of merit in the past when wages were relatively stable. That provision was originally put in the bill which I supported and helped draft before this committee. But now with inflation, lifetime earnings become increasingly out of relationship with the work incentive. Why include earnings of 1952 and 1953, and 1969, 1961, and 1962?

When this committee revised the law with regard to the relationship of workmen's compensation, you put in a limit there of 80 percent of the best 5 years, or the best 1 year. Now if you are going to relate it to previous earnings, which I agree with, I agree with the principle, then it ought to be 80 percent of the best 5 years, and not the lifetime earnings 20 or 30 years.

So while I agree with the principle, I think you ought to change the impact of it.

Second, the Advisory Council on Social Security, which is scheduled to report to you, agreed and voted that it should be 90 percent of the best 5 years, and not 80 percent of lifetime earnings. I believe you ought to have the consultation of that advisory council before you act on this provision.

Third, with regard to the 150-percent limit, let me point out how anomalous that is. Under the existing law for death benefits, the limit is 188 percent. When the disabled person dies, the widow and children will get an increase in benefit. That is ridiculous to pay more when there is one less person in the family by the death of the disabled person. It could be an encouragement to suicide, as a matter of fact. I don't think the chairman of this committee would want to provide that kind of financial incentive in the law. I hope that you will reexamine it. [Laughter.]

The third one penalizes young persons, Senator, by averaging in more than the years of their work. I think that it is punitive with regard to young workers who have not yet been able to develop their full earning capacity.

For those reasons, I urge you very strongly to either repeal, or not act on those three provisions, and give further study, or to modify them. But I would say that if you include those three provisions in the bill, our blind and disabled groups will have no recourse than ask the President to veto the bill as a backward step in cutting back on the most disadvantaged and handicapped in this Nation.

I should like to point out, if you will give me one second more, that as a former Secretary now, speaking in my individual capacity, I am very much opposed to a bill that gives the Secretary of HEW complete Federal authority over all the State disability determination units in the bill.

I don't know how closely you have studied it, but this is a bill designed to federalize the State of Louisiana, and the State of Minnesota's disability determination unit.

The CHAIRMAN. I was not aware that you have become an avid States righter, Mr. Cohen. I thought you were a great federalist.

Mr. COHEN. I was down in New Orleans recently for 3 or 4 days.

The CHAIRMAN. I thought that you were a federalist type.

Mr. COHEN. Well, that may be my reputation, but I am trying to prove that my reputation does not always follow the facts.

In this case, Senator, if you do want to federalize it, and there are some grounds in the committee report, that is what they really argue for. But this is a kind of a mixed system. It says that the States will still administer it, but the Secretary of HEW will have authority to issue any rules and take it away from the State of Louisiana.

If you will look at section 8 of the bill, which gives the Secretary authority to establish any other rules designed to facilitate or control, or assure the equity and uniformity of the States disability determinations.

When I was Secretary, I would not have wanted that authority. If you want to run it federally, then give it entirely to the Secretary. But this legislation gives it to the States, and then says that the Secretary can tell the States how to do their job. I don't think that is good Federal/State cooperation.

Now the other provision in here is when the Secretary takes it away from the State, and then there is merely a study in here of how you get the personnel to do it.

There are two or three States that want to give it up. One of them was my own State of Wisconsin, which wanted the Federal Government to take it over. But then there is the issue of how the State employees become Federal employees. All it says in the bill is that "we will study the question." That is no answer to the problem.

I suggest that section 8, which becomes effective 12 months afterward, if you don't take it out, I suggest you make it 24 months, or 36 months so that you can study this, because it really undermines the whole disability determination unit. The States are exceedingly upset.

If I were still administering it, I would try to get the States to do the best job, if it were a Federal/State system, or take it over completely, one or the other. But this kind of a mixed system is going to upset the State and regional administration during the next couple of years.

My written statement contains some other comments, but those are my main points, Senator.

The **Chairman**. Mr. Cohen, I think your credentials are still pretty good in liberal circles. I am not sure whether mine are. I think that you and I have been able to come to terms every time that you had some matter you were interested in when you were in Government. My impression is that we did not always agree in the beginning, but that we were always able to get together on something. We might have had to split the difference sometimes, but can you recall a time when you and I could not get together on something while you were down there at HEW?

Mr. **Cohen**. No, sir. I think that I could get together with you right now, Senator. I am willing and able. [Laughter.]

The **Chairman**. I want the record to show that I cannot recall a time when I could not come to terms with Wilbur Cohen when he was the Secretary of HEW. He was always willing to make a concession to try to meet the other person's point of view, provided that it was mutual.

My experience is, as long as you were around here, we were always able to get together on something, and you not only were willing to accommodate other people with their views, but you were pretty good at thinking up some new ideas, new approaches that might be a good answer to a problem.

I enjoyed working with you on medicare, and medicaid and the rest of those programs.

Mr. **Cohen**. I think, on each of these points, Senator, I don't disagree with the principle established by the House. I disagree with the way they have handled it. So I think that it is well within the compromisable area.

The **Chairman**. If I understand your view, you do recognize that there are some areas where we could and probably should try to save some money in the program, especially if we can use the savings to provide some help in areas where it is very much needed.

Mr. **Cohen**. Yes, sir.

The **Chairman**. In other words, in some areas these programs do a lot of good, and in some cases they don't. I know something about this program. There is no doubt that there are some cases where it is hard to determine disability.

Mr. **Cohen**. Certainly.

The **Chairman**. I know a young man, who because of a congenital defect in his legs suffers pain most of his waking hours, and yet he does a good job. He works hard as a young lawyer, and does good work. Then there are other people with the same degree of pain who could very well claim to be disabled and draw disability payments.

On the other hand, when I was a young lawyer I represented somebody who came in and claimed that he had had an injury and was disabled. But one time he took one elevator down from my office, and I took another elevator down. His stopped on the way down a couple of times, and so I got to the street first. That man was supposed to have a back so bad that he could not get around, but when that man hit the streets, and I swear he could have beat me in a 50-yard foot race. Obviously, he was exaggerating his disability, and if he had any pain at all, it was not anything that was of a serious nature.

When I saw that fellow hit the street, I realized that I had better compromise that lawsuit as soon as I could, because it was not much of a lawsuit. [Laughter.]

So I have seen both sides of the argument.

On the other hand, I just handled a veteran's case for a man where the VA wrote a snide report on it. The doctor took the view that this guy was malingering, and there was not really anything wrong with him at all. My office wrote a letter, and I said, "No, we cannot send that one. We have got to take the view that the customer is always right, especially if he is a public official in Louisiana." It turned out that the man had a brain tumor, and they had not discovered that. So the man really was disabled and not really for long on this Earth.

It is hard to tell when some of these cases are wholly disabled. But we want to work with you and try to work out something that will meet the public interest.

Mr. COHEN. I want to say, Senator, I strongly support section 17 in the bill for the periodic review of the disability determination. In this bill, they provide that you ought to reexamine every person at least every 3 years. Ultimately in the 5 year that would save $123 million, because people's disabilities do change in time.

Now, if you were willing to add the personnel, I would make that periodic review every year. I think the reason in the bill that they did not do it, and they made it every 3 years, is because, obviously, it means adding more staff.

Remember that I told you a few days ago that the reason we get into all this difficulty is because all these trust funds are in the unified budget, and more personnel expenditures thus increases the deficit. But if I were doing it to save money in disability, I would have more frequent periodic review of disability, and you could save more money. So I think that this is something that you ought to consider.

The CHAIRMAN. We ought to find a way in the budget where we can take credit for the savings when there is an expense. In other words, what you are saying is, if you reviewed the cases once a year, you would save a lot of money. Would the savings more than offset the expense?

Mr. COHEN. They estimate in 1984, by the 3-year periodic review that they would save $123 million in the 5th year compared to $66 million in the 4th year. So obviously that line of savings is going up, and the future savings in other years, by more periodic reexamination, would be greater. I think that this is one way to save a lot of money.

The other provisions in the bill that give Federal review of the State agency by more serious performance standards is estimated to save $181 million in the 5th year. So I did not want my previous statement to imply that I am not for getting the States to do a better job, but the difficulty is that they do not have enough staff to do it competently. All that staff cost is paid out of the employer/employee contributions. It is not a general revenue cost.

So I would urge you to put more performance standards in, get more medical evidence, do more redetermination, pay for the travel expenses as they do in the bill, and in the long run I think you will get people off who get rehabilitated.

I strongly support the other provisions in the bill. The one that provides that you will continue to get your medicare. One of the reasons why there has not been as much rehabilitation is that if a man or a woman goes back to work, and they don't know whether they are going to make it, if in their mind they think they are going to lose their medicare, they are going to stay on the disability rolls. That is just a natural human state, because the medical costs could be thousands upon thousands of dollars.

I don't need to tell you because you favor a catastrophic medical care program, and that is where the catastrophic medical costs on a person who is already disabled and approaching death.

So I would favor that part of the bill that continues their medicare for 36 more months. I think that you will get more people going off the rolls.

So there are constructive things in the bill, but you don't need to cut back the people's benefits who are really severely disabled.

I would like to end my testimony by saying that in my SOS committee my three honorary chairmen are Wilbur Mills, Speaker McCormack, and Congressman Burke, who was the chairman of the subcommittee that originally developed this legislation, who is now opposed to it. So I think that I am not alone in my criticism of the House passed bill.

The CHAIRMAN. Are you still a litter pickerupper, Mr. Cohen? You and I used to be the Nation's principal litter pickeruppers when you were around here in Washington.

Mr. COHEN. Not only that, but again this morning, this is Wednesday, I took the garbage out, Senator. I may not have done it when I was in Washington, but when I am home and my wife tells me to take the garbage out, I do it. [Laughter.]

The CHAIRMAN. Senator Durenberger?

Senator DURENBERGER. I would just like to show, in light of what Mr. Cohen said about S. 1643, my bill, that if the two of you want to get together right now, I will be glad to waive my questions.

Mr. COHEN. I should have said the three of us. I am sorry.

Senator DURENBERGER. Thank you very much.

The CHAIRMAN. Thank you very much, Mr. Cohen.

[The prepared statement of Mr. Cohen follows:]

STATEMENT BY WILBUR J. COHEN, CHAIRMAN, COALITION TO SAVE OUR SECURITY (SOS)

NEEDED REVISIONS IN THE DISABILITY INSURANCE PROPOSAL PASSED BY THE HOUSE OF REPRESENTATIVES

Mr. Chairman, I testify today on behalf of some 150 organizations which are opposed to the cutbacks in sections 2 and 3 of H. R. 3236 relating to the limitation on total family benefits in disability insurance cases (section 2)—the 80 percent limit computed on average lifetime earnings and the 150 percent limit on an individual's primary insurance amount (PIA)—and the reduction (in section 3) in the number of drop-out years for younger disabled workers.

I strongly urge you to either drop these two sections from the bill or substantially revise section 2 along the lines I discuss later in this statement, and to drop section 3.

COMMENT ON H.R. 3464

Before I comment extensively on H.R. 3236, I would like to say that I strongly support the objectives and the provisions of H.R. 3464 relating to the Supplemental Security Income Disability Amendments of 1979. I recognize the problem presented by Representative Pickle in his Dissenting Views in the House Committee Report on the increase in the earnings level for determining Substantial Gainful Activity (SGA) for SSI as compared to the lower SGA test in the disability insurance program under social security ($280 a month). I would prefer if the amount were the same in both programs. This matter deserves careful consideration. Perhaps this section of the bill should be deferred for further study.

COMMENT ON H.R. 3236

With respect to H.R. 3236, the Disability Insurance Amendments of 1979, I enthusiastically support the five improvements in section 3-7 and the four improvements in sections 13-17. I am vigorously opposed to:

Section 2—the limitation on total family benefits in disability cases, and;

Section 3—the reduction in the number of drop-out years for younger disabled workers.

I have serious difficulties with the drafting of the policy of section 8 relating to federal supervision of an intervention in state disability determinations, especially the broad language revising section 221(a)(2)(F) which gives the Secretary the unlimited and ambiguous authority to establish "any other rules designed to facilitate, or control, or assure the equity and uniformity of the state's disability determinations." This is just too much regulatory power to put in the hands of the Secretary and is bound to inflame and impair federal-state relations in this important area.

I also believe section 8(h) is inadequate and unsatisfactory in relation to resolving any situation where the state wishes to turn over the disability determinations to the federal government or where the federal government wishes to terminate the agreement for the state to make the determinations.

The effective date of section 8 is 12 months following enactment. I suggest that if this section is retained in the bill, the effective date should be made 24 months afterwards and in the meantime an operative plan to dealing with the problem in subsection (h) could be developed and enacted.

Section 8 is estimated to save the following amounts: 1981, $6 million; 1982, $57 million; 1983, $116 million; and 1984, $181 million.

I believe these amounts probably could be saved by more effective cooperation between the federal government and the states under existing law.

Section 2

Section 2 of the bill contains two limitations: 80 percent of average earnings, and 150 percent of the primary insurance amount, whichever is smaller. Both these limitations are too harsh on disabled individuals.

The 80 percent limitation should be changed from average earnings to current earnings as already provided in section 224 of the law.

The 150 percent limitation should be dropped.

Section 2 is inconsistent with existing section 224 relating to worker's accident compensation cases

Section 224 of existing law provides that where a disabled person is elibible to receive both a disability insurance benefit under social security and a state or federal worker's accident compensation benefit, the total of such benefits shall not exceed 80 percent of his "average current earnings."

The law defines these current earnings as follows:

"For purposes of clause (5), an individual's average current earnings means the largest of (A) the average monthly wage (determined under section 215(b) as in effect prior to January 1979) used for purposes of computing his benefits under section 223, (B) one-sixtieth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 209(a) and 211(b)(1) for the five consecutive calendar years after 1950 for which such wages and self employment income were highest, or (C) one-twelfth of the total of his wages and self-employment income (computed without regard to the limitations specified in sections 209(a) and 211(b)(1) for the calendar year in which he had the highest such wages and income during the period consisting of the calendar year in which he became disabled (as defined in section 223(d) and the five years preceding that year."

The 150 percent limitation in section 2 should be dropped

Not only is the 80 percent limitation based on average earnings but it is further reduced by another limitation, 150 percent of the individual's primary insurance benfit whichever is smaller!

The 150 percent limit would result in excluding payment to children where the disabled person has a wife.

Thus, this limit might be called an anti-family provision. I am not aware that the President recommended this provision. He does not refer to any such limit in his State of the Union Message.

Moreover, the 150 percent limit has another adverse effect: When the disabled person dies, the family benefit could increase because there is no such limit on the survivor's benefits.

For these reasons we recommend that the 150 percent limitation should be deleted from the bill.

We would not oppose, however, a limitation of 200 percent which would enable most children to receive payments.

Sections 2 and 3 are inconsistent with the President's guidelines

President Carter in his State of the Union Message in January 1979 stated that disability insurance benefits should "not exceed pre-disability disposable income." This is a sound general principle but of course must be and has been modified by Congress in a practical way such as providing a minimum benefit, and where insurance benefits are inadequate, to supplement them by SSI disability payments, as is provided by existing law. As a matter of fact, a disabled individual can receive much more in SSI disability benefits than he or she could otherwise receive in disability insurance benefits, and more than he or she received in previous wages.

But 80 percent of prior average lifetime earnings, as would be computed under H.R. 3236, is really not pre-disability disposable income but far below this for practically all persons except very young persons. Therefore, I conclude that H.R. 3236 in this regard is not consistent with the President's guideline.

Nor is the reduction in the number of drop-out years for younger workers consistent with the President's guideline. The net result of reducing the number of drop-out years for younger persons is to lower the pre-disability disposable income amount.

We believe, therefore, that if the bill, as passed by Congress, includes these limitations and reductions, we must urge the President to veto the bill as (1) inconsistent with his guideline, (2) as retrogressive, harsh, and unfortunate legislation, and (3) because it reduces the role of social insurance and increases the role of welfare which we believe is a backward step.

Action of the Advisory Council on Social Security and the National Commission on Social Security

While H.R. 3236 was proceeding through the Ways and Means Committee this year, there were two official statutory bodies at work studying social security: an Advisory Council on Social Security, appointed by the Secretary of HEW, and a National commission on Social Security whose members were appointed by the President, the Speaker, and the President Pro Tempore of the Senate.

The Advisory Council recommended that the maximum should be 90 percent of the workers' highest five consecutive years of earnings.

The National Commission on Social Security recommended that action on disability insurance changes should be deferred until the Commission completed its study of the problem.

The House Committee on Ways and Means rejected the advice of both groups.

We recommend that action on the limitations be deferred until the reports of these two groups are available and reviewed.

Rehabilitation and the level of payments

One of the arguments made for the limitations and cutbacks in sections 2 and 3 of H.R. 3236 is that a lower benefit will encourage rehabilitation and return to work.

Because the definition of disability in the social security program is so strict, we do not believe there is much actual opportunity for rehabilitation except in a very small number of cases. This fact is brought out in the article in the Social Security Bulletin for April 1979 which is included in my statement.

We fully support all efforts at rehabilitation but do not believe that the cutbacks will accomplish this because these individuals will have to resort to supplementary support from SSI. If it is the total of income that is received which is the disincentive to rehabilitation and return to work, how can the supporters of H.R. 3236 justify supplemental payments under SSI and deny it under the insurance program!

Adverse effect on beneficiaries and general revenue expenditures

The limitations in sections 2 and 3 will decrease benefits to the disabled.

Recovery of Disabled Beneficiaries: A 1975 Followup Study of 1972 Allowances

by Ralph Treitel [*]

In recent years, the number of persons awarded disabled-worker benefits has rapidly increased, but no corresponding rise has occurred in the number leaving the rolls for recovery. A comparative analysis has been made of the demographic, disability, and benefit characteristics of a sample of disabled workers awarded benefits in 1972 who left the rolls for recovery and the characteristics of those who remained on the rolls. For most beneficiaries, recovery appeared unlikely. A large proportion of those awarded benefits were older middle-aged workers with chronic progressive diseases. About 7 in 10 were aged 50 or over at allowance; one-fifth had died by the end of 1975. Younger beneficiaries, those with more education, those disabled by injuries, and residents of Western States were most likely to recover. Persons with higher benefit amounts had a high rate of recovery, but this finding appeared to reflect the effects of their being younger and more skilled. The level of earnings replacement appeared to have little independent effect on recovery. Among workers with conditions most subject to medical improvement, however, those with high replacement rates were less likely to leave the rolls.

Since 1957, when cash disability benefits first became payable under the social security program, only a small proportion of the disabled-worker beneficiaries have left the rolls because they recovered their ability to work. Almost all beneficiaries have remained on the rolls until death or the automatic conversion of their benefits to retired-worker benefits at age 65. Essentially, the program has functioned as a total and permanent disability program for middle-aged workers with progressive diseases related to aging.

In the past decade, the number of new claimants has risen rapidly—from about 300,000 to more than 600,000 a year. During the same period, however, the number of persons leaving the rolls for recovery has remained at about 40,000 annually. The increase in the number of entrants and the absence of a corresponding increase in the number of recoveries has raised concern that economic disincentives may be operating to inhibit recently disabled workers from making efforts to return to work after they begin drawing benefits.[1]

This article presents information on demographic, economic, and disability characteristics related to recovery and continuing dependency. For a sample of the 413,000 disabled-worker beneficiaries in 1972, later benefit and earnings data through 1975 were obtained. The characteristics of those who had recovered by 1975 are compared with those who remained on the rolls to see if the amount of benefits played a major part in benefit dependency. The data source is the Continuous

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[*] Division of Disability Studies, Office of Research and Statistics, Social Security Administration. The author wishes to acknowledge the assistance of the following colleagues: Michael Bostron, Barry Bye, Audrey Coe, Robert Finch, Beatrice Matsui, and Bernard Trieber.

[1] See Subcommittee on Social Security, Committee on Ways and Means, U.S. House of Representatives, Public Hearings, **Disability Insurance Program** (94 Cong., 2d sess.), 1976, page 23ff: Mordechai F. Lando and Aaron Krute, "Disability Insurance: Program Issues and Research," Social Security Bulletin, October 1976; and Subcommittee on Social Security, Committee on Ways and Means, U.S. House of Representatives, Disability Insurance Amendments of 1979, H. R. 2054 (96th Cong., 1st sess.), March 1979.

In addition to the recovery data for the entire study population, a recovery statistic called "survivors recovery" has been calculated for the 259,000 working-age adults who neither died nor reached age 65 by the end of a particular period. By the end of 1975, 8.4 percent of the survivors had recovered from their disabilities,

Chart 1.—Relation of variables to recovery by 1975 for working-age survivors with disability allowances in 1972

Variable	Recovery experience and characteristics of survivors [1]		Independent statistical effect on recovery found in logit analysis [2]
	Associated with difference in recovery rate		
	Higher Recovery Rate	Lower Recovery Rate	
Age	**Younger.** 23 percent under age 40 recovered.	**Older.** 4 percent or less of those aged 50 or over recovered.	Significant difference ($t = 17.37$).
Sex	**Male.** 10 percent of the men recovered.	**Female.** 6 percent of the women recovered.	Significant difference ($t = 4.20$).
Number of dependent children	**With more dependents.** 14 percent with 3 or more children recovered. (The recovered were younger workers, with no difference by marital status.)	**With fewer dependents.** 6 percent with no dependents recovered. (Many of the recovered were the oldest workers.)	Significant difference ($t = 3.62$).
Primary diagnosis	**With injuries, infective diseases, and mental illness.** Recovery rates: Fractures, 33 percent; disc displacement, 16 percent; tuberculosis, 34 percent; schizophrenia, 8 percent; statutory blindness, 10 percent.	**With chronic diseases related to aging.** Recovery rates: Heart disease or osteoarthritis, 3 percent; emphysema, less than 1 percent; neoplasms, 1 percent.	Significant difference ($t = 11.57$).
Education	**With more schooling.** 9 percent with more than high school recovered.	**With less schooling.** 4 percent with less than 9 years of school recovered.	Significant difference ($t = 4.86$).
Mobility	**In treatment facility at time of application.** 9 percent in a hospital or institution recovered.	**With no limitation on ambulation.** 5 percent recovered.	Significant difference ($t = 3.35$).
SSA region	**In Western State.** Recovery rates: San Francisco or Seattle region, 8 percent.	**In Southern or Eastern State.** Recovery rates: Atlanta, New York, and Philadelphia regions, 5 percent; Puerto Rico, 2 percent; Florida, Arkansas, Virginia, and West Virginia, 4 percent.	Significant difference ($t = 3.88$).
Predisability earnings	**Higher earnings.** 10 percent of those with annual earnings of $6,000 or more recovered.	**Lower earnings.** 6 percent of those with little earnings before onset of disability recovered.	Significant difference ($t = 7.36$).
Level of benefit	**Higher amount.** 10 percent with benefits of $300 or more recovered, but in logit analysis, with other variables controlled, higher benefits produced lower recovery rate.	**Lower amount.** 5 percent with benefits less than $250 recovered.	Significant difference ($t = 3.48$).
Earnings replacement	**Higher replacement.** 10 percent of those with replacement of 100 percent or more recovered, but in logit analysis, with other variables controlled, higher replacement produced lower recovery rate.	**Lower replacement.** 7 percent of those with 25–74 percent replacement recovered.	Significant difference ($t = 4.94$).
	Not associated with differences in recovery rates		
Marital status	Among married or single workers, 8 percent recovered.		No significant difference ($t = 0.10$).
Race	Among black or white workers, 8 percent recovered.		No significant difference ($t = 0.14$).
Occupation	In small group with white-collar positions (professional, technical, and managerial) 12 percent recovered; 6–9 percent of the blue-collar workers recovered. In logit analysis, little differences in recovery rates found among most occupational categories and no statistically significant differences by occupation.		No significant difference ($t = 1.09$).

[1] Based on recovery rates in cross tabulations in tables 3, 4, 6, and 7.

[2] According to t ratios (in parentheses). See discussion and table V in technical note for derivation of these measures.

The estimated effect of the limitations and reductions according to the House Committee Report is as follows:

[In millions]

	1980	1981	1982	1983	1984	Total
Section 2	$38	$146	$263	$392	$525	$1,364
Section 3	12	45	88	138	193	480
Total	50	191	351	530	718	1,844

The disability insurance fund is currently in sound financial condition. There is no justification for cutting back on these benefits from the standpoint of the solvency of the disability program.

These cutbacks will increase the federal budget expenditures under the SSI program. We do not believe this is sound policy.

CONCLUSION

We strongly urge you to carefully reconsider sections 2, 3, and 8 of H.R. 3236. I would like to point out that in the House of Representatives seven members of the Ways and Means Committee voted against the bill as did the Chairman of the House Select Committee on Aging, the Majority Whip, the Chairman of the Interstate and Foreign Commerce Committee, and the Chairman of the Education and Labor Committee, and several other Chairman of Committees and Subcommittees.

We also wish to point out that our opposition is endorsed by the former Chairman of the House Committee on Ways and Means Subcommittee on Social Security, Mr. James Burke, the former Chairman of the Ways and Means Committee, Wilbur D. Mills, and the former Speaker of the House, John W. McCormack.

We urge you take a revised bill to Conference in order to fashion a bill which can be supported by the disabled and blind groups who oppose the present bill.

The CHAIRMAN. Next we will hear from Mr. Anthony P. Carnevale, and Charles Loveless of the AFSCME's counsel for employee benefits, accompanied by Marty Blum, National Association of Disability Examiners.

STATEMENT OF ANTHONY P. CARNEVALE, DIRECTOR OF LEGISLATION, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME), PRESENTED BY CHARLES LOVELESS, ACCOMPANIED BY MARTY BLUM, NATIONAL ASSOCIATION OF DISABILITY EXAMINERS

Mr. LOVELESS. Mr. Chairman, and distinguished members of the Finance Committee I am Charles Loveless, AFSCME's counsel for employee benefits, and I am a last minute substitute for Anthony Carnevale, our director of legislation, who regrets that he will be unable to be with you today because of a last minute work commitment.

I am here today representing Jerry Wurf, the president of AFSCME, and the more than 1 million of our members who work in State and local governments across the Nation.

I am accompanied by Mr. Blum of the National Association of Disability Examiners, who has submitted, I believe, a statement for the record and is available to answer any questions that you may have.

With the brief time that I have today, Mr. Chairman, I would like to focus exclusively on H.R. 3236, a bill that AFSCME opposes.

Our union strongly opposes H.R. 3236 for several basic reasons. First of all, in our view, there currently is no crisis in the financing or administration of the social security DI program and therefore, we do not believe there is a pressing financial need for Congress to make the types of significant changes in the DI program that are contemplated in H.R. 3236.

Second, the provision of H.R. 3236 reducing or eliminating the dropout years for younger disabled workers, in our view, is unwise and discriminates against younger workers.

Third, the 80 percent AIME/150 percent PIA cap on family benefits, we think, will impose an onerous new financial burden on disabled workers and their families and will have a particularly severe impact on minorities and women.

Finally, we believe the rights of State employees in the Federal-State disability determination system are not adequately protected by H.R. 3236 in the event a State elects not to continue administration of the social security disability insurance program, or the Secretary of HEW terminates the State's administration of the program.

We elaborate in greater detail in the statement we submitted for the record each of our reasons for opposing the bill. With the time remaining, I would like to directly respond to some of the major arguments the proponents of H.R. 3236 have advanced in support of the bill.

First of all, with specific reference to the provision of the bill providing for the 150 percent PIA/80 percent AIME cap, proponents of H.R. 3236 argue that high replacement rates—by that I mean the ratio of benefits to previous earnings—have constituted a major disincentive to disabled workers in attempting rehabilitation or attempting to return to work. However, it is our view that current disability benefits are not too liberal.

We believe the assumption that benefits are too high and constitute a work disincentive has never been substantiated by proponents of the bill. The so-called high payments where the replacement ratio is over 80 percent—generally occur in families where dependent benefits are added to the disabled worker's basic amount.

It long has been a basic purpose of the disability insurance program, and a very laudible one, that social security disability benefits are designed to protect families. The family of a worker who becomes disabled has, at the minimum, the same financial needs it had while the breadwinner was still working. In many cases, new financial needs arise upon disability. For example, the worker often loses valuable fringe benefits that were provided by his employer. He or she can no longer do house repairs and, therefore, must contract that work out. Heating costs may increase because of the increased time that he or she must stay at home. His or her handicap may become more severe, and additional family expenses are likely to be associated with it.

In June 1977, the average monthly cash benefit of a disabled worker with a wife and one or more children was $517, hardly an overgenerous amount, according to Robert Bell's "Social Security Today and Tomorrow." Even a small reduction in benefits for affected families, we think, could have a drastic effect on their ability to obtain adequate housing, food and clothing.

We would like to point out, as former Secretary Cohen noted, that no attempt has been made to relate the 150-percent PIA limitation to some proportion of predisability earnings. A worker's average indexed monthly earnings which are used to compute the PIA are likely to be low.

Furthermore, limiting the family benefit to 80 percent of AIME will have an even harsher impact as the burden here will fall almost exclusively on low-income persons. A worker with a spouse and child who averaged an indexed monthly earning of $400 could lose as much as $31.60 per month, which is a significant reduction in income It should also be noted that the early years of employment are frequently low earning years for minorities and women, and thus this proposal will have a particularly harsh impact on women and minorities.

With specific reference to the provision of the bill reducing or eliminating dropout years of younger disabled workers, proponents of H.R. 3236 argue that this provision is necessary in order to reduce the disparity in benefits received by younger and older disabled workers. In brief response, we point out that the 1977 social security amendments by indexing earnings eliminated much of the advantage enjoyed in benefit calculations by younger workers. In our view, any further reduction is going to be highly discriminatory against younger workers. Younger workers generally have low levels of earnings during their first years of employment, and correspondingly increasing family responsibilities. The dropping out of low earning years for these young workers assures them of somewhat more adequate income levels despite of their early years of low earnings.

I think it also needs to be emphasized that it is precisely these workers, the younger workers, who are not likely to have earned any job related supplemental disability coverage—and this is particularly true in the public sector, Mr. Chairman—thus they are dependent exclusively on social security disability insurance benefits.

Finally, I would just like to note that section of our written statement which specifically responds to the provision of H.R. 3236 drastically reforming the entire administrative structure of the disability insurance determination process. We strongly believe that the current Federal-State contractual system can be improved, and that the role of States within the disability determination process should be preserved. We would also like to point out that we are extremely concerned that the rights of State disability examiners are not adequately protected by the bill.

Thank you very much, Mr. Chairman. As we indicated in our written statement, we do support certain provisions of H.R. 3236, but we do not think the cap or reduced dropout year provisions are necessary or appropriate.

The CHAIRMAN. Thank you very much.

Senator Durenberger, do you have any questions?

Senator DURENBERGER. No; Mr. Chairman.

The CHAIRMAN. Thank you very much.

[The prepared statement of AFSCME follows:]

STATEMENT BY ANTHONY P. CARNEVALE, DIRECTOR OF LEGISLATION, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

Mr. Chairman and distinguished members of the Committee, I am Anthony P. Carnevale, Director of Legislation of the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO. I am here today representing Jerry Wurf, President of AFSCME, and the more than one million members of AFSCME who work in state and local governments across the nation.

We appreciate the opportunity to appear before your committee today to present our views on H.R. 3236, the Disability Insurance Amendments of 1979, which would make major changes in Social Security's Disability Insurance Program. As you know, Mr. Chairman, AFSCME has a major interest and stake in the protection of the integrity of the Social Security System. The great majority of our members count on Social Security as an essential protection for themselves and their families against loss of income, whether by disability, old age or death. Protection against disability is particularly important because, unlike retirement, it usually cannot be planned for and may come at a time when a worker still has a young family and numerous financial commitments.

Social Security's Disability Insurance Program is a vitally important form of income protection for millions of American workers and their families because it provides most, if not all, of the income they will receive in the event of a severely disabling sickness or injury. Therefore, any proposals which would make significant modifications in the program should be carefully considered by the Congress because of their far-reaching and potentially devastating consequences.

Among other provisions, H.R. 3236 would limit total Social Security disability family benefits to the lesser of 80 percent of average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). In addition, the bill would reduce the number of dropout years afforded younger disabled workers; no dropout years would be allowed for workers under age 27, with the number of dropped years gradually rising to 5 for workers age 47 and older. Under current law, all disabled workers are permitted to exclude 5 years of low earnings. A third provision of H.R. 3236 would strengthen the federal role in the federal-state disability determination system by increasing direct federal management control and review over state agency disability determinations and by eliminating the current system of negotiated federal-state agreements over how the disability determination process is to be carried out.

AFSCME strongly opposes H.R. 3236 for several reasons. First, there currently is no crisis in the financing or administration of the Social Security disability program, and therefore there is no pressing financial need for Congress to make significant changes in the program as proposed in H.R. 3236. Second, the provision of H.R. 3236 reducing or eliminating the dropout years for young, disabled workers is unwise and discriminatory against younger workers. Third, the 80 percent AIME/150 percent PIA cap on family benefits will impose an onerous new financial burden on disabled workers and their families and will have a particularly severe impact on minorities and women. And finally, the rights of state employees in the federal-state disability determination system are not adequately protected by H.R. 3236 in the event a state elects not to continue administration of the Social Security disability program or the Secretary of Health, Education and Welfare terminates a state's administration of the program. We set forth below, in greater detail, our reasons for urging the Committee not to favorably report out H.R. 3236.

I. THERE CURRENTLY IS NO CRISIS IN THE FINANCING OR ADMINISTRATION OF THE SOCIAL SECURITY DISABILITY PROGRAM, AND THEREFORE, THERE IS NO PRESSING FINANCIAL NEED FOR CONGRESS TO MAKE SIGNIFICANT CHANGES IN THE PROGRAM AS PROPOSED IN H.R. 3236

The 1979 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, issued in March of this year, indicates that both the short-term and the long-term financial position of the Disability Insurance Trust Fund (DI trust fund) is strong. The report states that by the end of fiscal year (FY) 1979 the disability trust fund will total over $5.5 billion and that it should continue to grow rapidly during the following 4 fiscal years. At the end of FY 1983, it is estimated that the fund will have accumulated a balance of approximately $22 billion which is approximately 100 percent of the estimated benefit expenditure in the following fiscal year.

The projected long-term financial picture for the DI trust fund is also favorable. The March 1979 Trustee's Report notes:

"The projections indicate that the increase in the DI trust fund that began in 1978 will continue throughout the next 75 years under both the intermediate and optimistic assumptions, and through the turn of the century under the pessimistic assumptions. The increase in 1978 was primarily due to the reallocation of contribution rates provided under the 1977 amendments, as well as to lower disability incidence rates in 1978."

Due to the declining trend in the number of disability benefit awards which will be discussed below, the 1979 report reflects new assumptions of substantially reduced disability incidence rates in the future as compared with those contained in previous reports.

The number of disability benefit awards has been declining since 1976, and this trend was particularly pronounced in 1978. The number of awards dropped from 552,000 in 1976 to 456,000 in 1978, and the growth rate in the number of beneficiaries on the disability rolls is the lowest since the program's inception.

The disability award denial rate which was approximately 50 percent in 1975 has moved upward to 60.6 percent in 1978. Furthermore, the disability cessation rate which was approximately 16 percent in 1975 increased to 50 percent in 1978. The reduced disability award experience since 1975 is due to a number of factors including extremely tight award administration by the Social Security Administration (SSA) and state agencies [1] and what we believe in certain instances to be overly stringent eligibility criteria.[2] It should be noted that this favorable experience in the DI program occurred under the old program when benefit levels were relatively higher than they are at present. On January 1, 1979, the "decoupling" provisions of the 1977 Social Security Amendments went into effect which will result in lower benefits particularly for younger workers. Presumably, the enactment of these amendments will contribute further to the improved financial condition of the DI program.

There currently are several study groups mandated by Congress in the Social Security Amendments of 1977, including the Advisory Council on Social Security and the National Commission on Social Security which are reviewing the DI program. The Congress should receive their recommendations in the immediate future, and given the severe financial impact of H.R. 3236 on disabled workers and their families which will be documented below, we do not believe the Committee should act on the bill until it has had an adequate opportunity to review the recommendations of these bodies.

II. THE PROVISION OF H.R. 3236 REDUCING OR ELIMINATING THE DROPOUT YEARS FOR YOUNG, DISABLED WORKERS IS UNWISE AND DISCRIMINATORY AGAINST YOUNGER WORKERS

H.R. 3236 is intended to remedy an allegedly unfair situation whereby an older disabled worker can exclude a significantly lesser percentage of his or her earnings history in calculating benefit entitlements than a younger worker. The bill's sponsors incorrectly believe that the current law which allows workers of all ages to exclude 5 years of low earnings unfairly discriminates against older workers in the DI program. In fact, we believe the reverse is true.

Young workers frequently have low levels of earnings during the years immediately following their entry into the work force. When a young worker is disabled it often comes at a time when he or she still has a young family and numerous financial commitments associated with a new family. The exclusion of a significant

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[1] The various administrative steps taken by HEW and SSA to tighten administration of the DI program, including increased emphasis on the Quality Assurance program and increased medical documentation of cases is discussed at some length in former HEW Secretary Joseph A. Califano's February 22, 1979 testimony before the Subcommittee on Social Security of the Committee on Ways and Means.

[2] For example, we believe that the definition of disability is too stringent. Section 223(a) (2) (A) of the Social Security Act, as amended, states, in relevant part, that:

"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 kind of substantial gainful employment 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*" (emphasis added).

This definition of disability, supplemented by vigorous SSA implementation, operates to deny disabled workers benefits if they are considered able to perform any job at all, no matter how different form their work history, how unlikely their chances of being hired or the location of the job from their homes. Such a definition of disability fails to take into account the older, disabled workers who, even in periods of high employment, face overwhelming obstacles in attempting to locate work. However, what we thought was a crisis several years ago has not continued.

percentage of low income years for younger workers is therefore extremely important to assure them of adequate income protection in the event of disabling injury or sickness. The reduction or elimination of dropout years for young workers, as is porposed in H.R. 3236, will thus have a drastic effect on the level of benefits and economic security provided under the DI program.

It should be emphasized that younger disabled workers often are not afforded the protection available to older workers under employer-sponsored pension or supplemental benefit plans. Those plans typically available in the public sector require ten years or more of service to be eligible to receive disability benefits until the date of service retirement, and usually the benefit payable is only the pension benefit accrued to date of the disability. Thus, there are numerous young workers who do not enjoy the protection of job-related supplemental disability coverage and consequently are completely dependent on the income protection provided by the DI program. Of course, it is precisely these workers who will be most affected by the bill.

The wage-indexed system adopted as part of the 1977 Social Security Amendments which took effect on January 1 of this year has already substantially eliminated the advantage accorded younger workers in disability benefit calculations. The additional cut in benefits for younger workers proposed in H.R. 3236 would be unfair and would work an extreme hardship for younger disabled workers and families.

III. THE 80 PERCENT AIME/150 PERCENT PIA CAP ON FAMILY BENEFITS WILL IMPOSE AN ONEROUS NEW FINANCIAL BURDEN ON DISABLED WORKERS AND THEIR FAMILIES AND WILL HAVE A PARTICULARLY SEVERE IMPACT ON MINORITIES AND WOMEN

The cap on family benefits contained in H.R. 3236 is based on the mistaken assumption that the high replacement ratio of benefits to previous earnings has constituted a major disincentive to disabled workers in attempting rehabilitation or returning to work. To our knowledge, no evidence has been cited by the bill's proponents which clearly demonstrates that a reduction in benefits will convince significant numbers of beneficiaries to return to work or that current benefit levels have been abused.

Given the very stringent eligibility requirements which Congress established for the DI program and rigorous enforcement of the requirements by SSA and HEW, the great majority of applicants who finally achieve benefit eligibility clearly fit categories of impairment or disease that leave them without capacity for any substantial work. Even the minority of DI applicants who have some residual capacity for physical activity, in order to qualify for beneficiary status, must be unable to do "any kind of substantial gainful work which exists in the national economy . . ." (See Section 223(a)(2)(A) of the Social Security Act, cited and discussed above in footnote 2.) Thus, DI beneficiaries are, in fact, seriously disabled people. Work of any sufficient type or amount does not represent a viable option for most of these people. They are generally the least likely of all workers to effectively compete in the current labor marker.

A study of 6,194 disabled-worker beneficiaries "rehabilitated" under the auspices of the DI program in FY 1969 indicates that approximately two thirds of all the beneficiaries reported earnings "after rehabilitation" in 1970 of under $2,000 with 44.2 percent showing no earnings for the year; 21.4 percent earned over $5,000 (See Committee Staff Report on the Disability Insurance Program, Committee on Ways and Means (July 1974), p. 290.) While it is not our objective in citing this study to denigrate the considerable accomplishments of the small DI rehabilitation program in helping a small minority of disabled workers to again receive substantial earnings, it is clear that the great majority of those "rehabilitated" have only minimal potential to return to substantial gainful employment in the current economic climate. The enactment of the benefit cap set forth in H.R. 3236 will not serve as an incentive to return to work since most DI beneficiaries are not likely to recover but will only increase the financial burden faced by disabled workers and their families.

It should be emphasized that the 80 percent AIME limitation is not applied to earnings at the time disability occurs but to a worker's lifetime of average indexed monthly earnings. The burden of this cap will fall almost exclusively on low income workers and their families and will have a particularly severe impact on women and minorities who frequently have very low earnings during their initial years of employment or who have intermittent periods of low earnings. Even a small reduction in benefits for such individuals and their families could significantly impair their ability to obtain adequate housing, food and clothing and to meet escalating heating and transportation costs.

The 150 percent PIA limitation similarly will have a harsh effect on disabled workers and their families. Disabled workers usually require more cash income than they received prior to disability in order to maintain an adequate standard of living for their families. Frequently new financial needs arise as a result of the worker's disability, including increased health, transportation and heating costs, and at the time workers are separated from their jobs due to disability they often lose valuable fringe benefits such as expensive health care coverage for themselves and their families which were previously provided by their employer. To arbitrarily limit the level of DI family benefits to the 150 percent PIA cap, we submit, will create a financial hardship of even greater magnitude for disabled workers and their families.

IV. THE RIGHTS OF STATE EMPLOYEES IN THE FEDERAL-STATE DISABILITY DETERMINATION SYSTEM ARE NOT ADEQUATELY PROTECTED BY H.R. 3236 IN THE EVENT A STATE ELECTS NOT TO CONTINUE ADMINISTRATION OF THE SOCIAL SECURITY DISABILITY PROGRAM OR THE SECRETARY OF HEALTH, EDUCATION AND WELFARE TERMINATES A STATE'S ADMINISTRATION OF THE PROGRAM

As was noted above, H.R. 3236 contains several provisions which are designed to strengthen the federal role in the federal-state disability determination system, including one which would eliminate the current system of negotiated agreements between HEW and the states. In the committee report accompanying the bill, it was acknowledged that if H.R. 3236 is enacted, ". . . 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 regulation requirements promulgated under this legislation." (See Report of the Committee on Ways and Means to accompany H.R. 3236 (April 23, 1979), p.9.) Section 8(h) of H.R. 3236 directs the HEW Secretary to submit to this Committee and to the Ways and Means Committee a plan on how the Secretary expects to assume the functions of a state disability determination unit should it become necessary. It further provides that such a plan should assume uninterrupted operation of the disability determination process, including the utilization of the best qualified personnel to carry out this function. Finally, it states that any recommendations of the Secretary for amending federal law to carry out the plans should be submitted to the Finance and Ways and Means Committees for appropriate referral to the committees having jurisdiction over federal civil service and retirement laws.

AFSCME is concerned not only about protecting the job rights of the state disability examiners which we represent but also about maintaining uninterrupted service for DI beneficiaries. We believe that state management of the disability determination process is in the best interest of DI beneficiaries and of the state disability unit employees and also will ensure that the limited administrative resources of SSA and HEW are not strained to beyond capacity.[3] While we recognize that certain inadequacies may exist in the current system of negotiated Federal-state agreements, namely in the area of maintaining uniform program administration, we believe the Committee should explore ways to improve the existing contractual system before substituting the administrative and mangement structure proposed in H.R. 3236 which shifts practically all administrative prerogatives to the Federal government. In our view, there are significant practical advantages in having a contractual arrangement between HEW and the states whereby each party agrees to certain delineated duties and responsibilities while retaining a flexibility to deal with unique situations which may arise in individual states. Unfortunately, H.R. 3236 deiminishes the role of the states to such an extent that many states may decide to end their involvement in the DI program.

At the minimum, we believe that any legislation which increases the likelihood of a Federal takeover of a disability determination system should provide strong job protection rights for the state employees who are employed in the state disability unit at the date the Federal takeover of a disability unit is proposed. As was noted in the House Social Security Subcommittee print, entitled "The Disability Adjudication Structure," dated January 29, 1978, "The state agencies are the greatest reservoir of talent in the disability program." We strongly concur with this view and believe that H.R. 3236 does not go far enough to ensure the utilization of the best qualified personnel in the event of a Federal takeover of a state's disability determi-

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[3] In this regard, it should be noted that under questioning from Fred Arner of the Ways and Means Social Security Subcommittee Staff, Secretary Califano admitted that HEW would encounter major administrative problems if large numbers of states elected to terminate their participation in the DI program. See Statement of the Honorable Joseph A. Califano, Jr., set forth in the Ways and Means Committee text, entitled "Hearings Before the Subcommittee on Social Security on Proposals to Improve the Disability Insurance Program," (1979), p.67.

nation process. All state disability unit personnel, under circumstances of a Federal takeover, should be converted to Federal employment and should be protected in the area of pension rights, collective bargaining rights, leave credits, salary rates and full credit for past state service.

For the foregoing reasons, AFSCME strongly opposes H.R. 3236 and respectfully urges the Committee to oppose the legislation. While we support certain constructive provisions of H.R. 3236, including the trial work and medicare extension amendments and the section permitting deduction of impairment-related work expenses, we do not think the cap or reducted dropout year provisions of the bill are necessary or appropriate.

Senator MOYNIHAN. Mr. Sanders and Mr. Gorski.

Mr. Sanders, you are representing the California Department of Rehabilitation.

Mr. ZUKAS [through interpreter]. My name is Hale Zukas of the Center for Independent Living in Berkeley, Calif. Mr. Sanders is ill.

Senator MOYNIHAN. Mr. Sanders is ill, and we welcome you, sir.

Mr. ZUKAS [through interpreter]. Mr. Gorski had to return to California.

Senator MOYNIHAN. Miss, your name is?

Ms. PARKER. Karen Parker from the Center for Independent Living, and I will be acting as Mr. Zukas' interpreter.

Senator MOYNIHAN. And you, sir?

Mr. FIEDLER. Marc Fiedler, and I am the deputy director of Massachusetts Office of Handicapped Affairs.

Senator MOYNIHAN. We welcome you, Mr. Fiedler.

Mr. Zukas, if you would proceed.

Mr. ZUKAS [through interpreter]. We had planned as a panel, and Mr. Fiedler would like to present first.

Senator MOYNIHAN. Mr. Fiedler.

STATEMENT OF MARC FIEDLER, DEPUTY DIRECTOR, MASSACHUSETTS OFFICE OF HANDICAPPED AFFAIRS

Mr. FIEDLER. I would like to begin by expressing my appreciation to the committee for hearing our testimony today.

It is important to clarify at the outset what I think is a very fundamental misconception that seems to lie at the heart of both the SSI and SSDI programs. I think that there is a false notion at the basis of those programs that disabled persons cannot or do not want to work. I would like to use myself, perhaps, to illustrate the inaccuracy of that assumption.

My desire to work and to lead a productive and self-supporting life has not decreased, but on the contrary has increased in the 4 years since I have incurred my disability. Furthermore, the fact that I am paralyzed from my chest to my toes does not mean that I am any less qualified than I was without my disability for most of the jobs in which I am interested.

In other words, I most definitely can work, and in fact I do work. I hold a full-time job, and with some accommodations to my needs as a wheelchair user, I experience very little difficulty in performing the essential duties of my position. It is also the case that I am a former SSI recipient. I will address a few of my remarks later to that.

I don't want to make you think that all SSI recipients or SSDI beneficiaries are in the same position as I, but I believe there are, in fact, many who can work and are desirous of working.

I would like to take the opportunity to draw a very important distinction between terms that are often mistakenly considered synonymous, namely, the terms "disability" and "handicap."

Disability refers to a condition of physical or mental impairment, such as paraplegia, deafness, or mental retardation. It does not imply any reduced capacity to lead a productive or meaningful life. The term "handicap," however, refers to a condition that arises from the interaction between an individual and his or her environment, and more specifically the barriers in the environment. Barriers may be of an architectural variety as would adversely affect a wheelchair user, or a communications variety as would affect a person with a hearing impairment, or an attitudinal variety as frequently affect mentally retarded persons. The source of the handicap is not the individual so much as his or her environment.

A person wearing high platform shoes and carrying an armful of bundles, who is trying to negotiate a cobblestone walkway, may not have a disability, but certainly experiences a handicap. So the terms, in fact, are not synonymous. In short, disability implies simply some sort of difference, whereas handicap implies some sort of level of inadequacy.

I think that it is particularly important to make this distinction when considering the issue of employment.

Yesterday, Chairman Long raised the question of the availability of employment opportunities for people who have disabilities. The problem I feel is not so much the availability of jobs as the fact that disabled people are so frequently handicapped in their pursuit of employment.

There are now on the books Federal laws prohibiting discrimination on the basis of handicap, and other laws requiring affirmative action for disabled persons. In Massachusetts, we have an executive order prohibiting discrimination in all State agencies with respect to all handicapped persons. Due to a great extent to these laws there probably are now more job opportunities available to disabled persons than ever before.

At the Massachusetts State Office of Handicapped Affairs, we get calls weekly from employers in both the public and private sectors who are seeking to employ qualified handicapped persons.

Far too often I am unable to refer disabled persons to these employers. It is not that the disabled persons are not qualified for the jobs, or not desirous of employment; the problem is that for these disabled persons who are SSI recipients, or SSDI beneficiaries, it would be a losing proposition to work. The current provisions of the SSI and DI programs impose unintended, but nevertheless very real handicaps on persons who happen to have disabilities.

It is a devastating disincentive for disabled persons under the SSI or DI programs, whose earnings exceed the SGA level, to lose not only their monthly payments, but far more important, their medical coverage and/or social services to which they are otherwise entitled.

It is unrealistic and unfair to expect a disabled person who enters the workforce to assume the costs of both everyday expenses and their often extraordinary medical expenses as well. Most disabled persons under the SSI and DI programs would prefer living at a subsistence level under the programs than risk the loss of vital services and benefits by attempting anything but merely marginal employment. You might say that life in the frying pan is a little more attractive than life in the fire.

What is needed, I feel, is not so much to restrict benefits under the SSI and SSDI programs, as to provide much needed incentives for disabled persons who wish to move off the rolls and seek employment.

Mr. Zukas, I believe, will address those issues right now.

STATEMENT OF HALE ZUKAS, THE CENTER FOR INDEPENDENT LIVING OF BERKELEY, PRESENTED BY INTERPRETER KAREN PARKER

Mr. ZUKAS. I have a reputation around the San Francisco Bay area for being fearless. However, I work for a pittance at the Center for Independent Living because I am afraid of either taking a decent paying job, or an increase in salary because if I did I would be declared not disabled, which is a laugh and a half, isn't it?

In the interest of time, I will ask Ms. Parker to read the rest of my remarks.

Senator MOYNIHAN. Thank you, Mr. Zukas.

Ms. Parker?

Ms. PARKER. There are good reasons for accepting other employment or allowing CIL to give me a raise. My current SSI, medicaid and attendant care benefits total more than $900 a month. My net income after payroll deductions and work related expenses would, therefore, have to be at least this much, or I would be losing money on the deal.

Obtaining a job that met these financial needs is not out of the question. What really scares me, though, is that once I have been determined to be performing SGA and no longer disabled I will not be able to get my benefits back if I lose my job, unless I get an additional disability or my condition worsens. Cerebral palsy, incidentally, is generally a stable condition. Thank God for small favors, right?

Therefore, if I would lose my job, I would be in a very precarious position, indeed, for without the means to meet my needs, I would probably end up vegetating in an institution at a very much higher cost to the taxpayer.

S. 591 and S. 603 will go a long way toward eliminating both my dilemmas. First, they provide for continuation of vital benefits after my earnings have passed the SGA level until they reach a level sufficient to meet my needs. Second, if I were to lose my job, I would be considered presumptively disabled, and thus immediately eligible for benefits. This provision would be in effect for 4 years after my trial work period had expired.

I assume that under the provision for presumptive disability in section 1 of S. 591 the original disability will reestablish disability provided there has not been a medical recovery.

Although we have submitted detail analyses of the legislation before you, we would like to discuss a few issues which merit special emphasis.

While S. 591 provides for the exclusion of certain impairment related expenses in determining disability status, these expenses are not considered in determining the benefit amount. The intent of the SSI program is directed at assuring aged, blind, and disabled individuals that they will be able to meet subsistence needs. Accordingly, the process of determining the benefit amount must be based on earnings which are actually available to meet the recipient's needs.

Under current law, the blind recipient may disregard from earnings any amount reasonably attributable to the earnings of that income. The disabled recipient has no similar disregard for reasonable work expenses.

To accomplish this objective, we support the process specified in H.R. 3464. In general, the existing disregard from earnings of $65 per month would be applied, then the cost of employment related services, care or items specified in section 4 of S. 591 would be disregarded if they were purchased by the recipient.

Rather than performing the administratively awkward tax of itemizing common work expenses, 20 percent of gross earnings would be disregarded for such expenses as mandatory payroll deductions, uniforms, union dues, and so forth.

Finally, the existing disregard of 50 percent of the remaining earnings would be maintained, and 50 percent would be reduced from the recipient's benefit.

May I add an additional comment here. Yesterday, Commissioner Ross said that the $65 income disregard was intended as a work expense deduction. In fact, it is intended as an incentive, which is why it is an income disregard.

The process we are recommending is more restrictive than the work expense exclusion currently provided for the blind.

There appears to be some feeling that S. 603, introduced by Senator Javits, is redundant in light of provisions for continued medicaid coverage in S. 591. S. 591 provides for coverage up to the point where earnings equal the value of the former benefits under titles 16, 19, and 20. Once a disabled person earns even a dollar more than this level, however, he must bear the entire cost. S. 603 would allow the disabled person to continue medicaid coverage at a share of cost as in the current MNO program available to nondisabled low-income persons.

There are several States which now provide medicaid coverage to individuals who cease to be legally disabled because they have performed SGA, despite the fact that no Federal participation is presently available for such coverage. S. 603 would remove this financial disincentive, and encourage other states to choose to provide the same coverage.

It goes without saying that section 2 and 3 of H.R. 3236 are philosophically opposed to anything the Center for Independent Living could possibly support. The provisions in question are section 2, which establishes a cap on family benefits, and section 3, which adjusts the dropout year formula.

If these provisions are maintained in H.R. 3236, the Center for Independent Living will be forced to vigorously oppose the bill in its entirety. It is illogical and punitive to provide incentives for those who might be able to work by reducing benefits for those who cannot. No SSDI beneficiary in their right mind would consider going back to work if their future benefit would be lower than they had if they had to get back on the SSDI roll.

We also strongly encourage including the deeming provisions in the H.R. 3464 and S. 591, and we want to call particular attention to the language for the sheltered workshop earned income provision in S. 591. We feel such declaratory language is long overdue, and properly recognizes the contributions of individuals employed in such settings.

Senator MOYNIHAN. Thank you, Ms. Parker.

Senator DURENBERGER. I don't have any questions, Mr. Chairman, but I want to compliment you and the staff, or whoever arranged this part of the testimony today. I think that both Mr. Fiedler and Mr. Zukas have pointed out to us the heart of the problem facing persons with disabilities. The first is the mind-set of America, and Mr. Fiedler, you did a beautiful job. I have never heard anyone do it as well as you did, drawing the distinction between disability and handicap.

Mr. Zukas, of course, I don't want to brag about your friends in Minnesota, but literally hundreds of people with disabilities like yours in Minnesota came to me throughout my campaign with the very simple message which you have stated so eloquently here today.

It is not very complicated. It does not require lots of bureaucracies, and expenditures of billions of dollars to recognize the disincentives that the mind-set that you spoke about, Mr. Fiedler, has placed in our system of responding to the basic needs that all of these people have, which is to work.

I appreciate having been able to be here today.

Senator MOYNIHAN. Mr. Zukas has been a guest of this committee before, and was very helpful last year. We almost got the legislation last year. It is precisely because the circumstances are not satisfactory to anyone that we have sudden flurry of legislative proposals.

I would like to ask both Mr. Fiedler and Mr. Zukas: Do I take it that you would generally share the thrust of Secretary Cohen's testimony on H.R. 3236? Were you able to hear it?

Mr. ZUKAS. Yes.

Senator MOYNIHAN. You do, Mr. Zukas.

Mr. Fiedler?

Mr. FIEDLER. Yes.

Senator MOYNIHAN. I need not say that you are in formidable company, if you do.

It is important for this committee to know, as we are going to be proceeding with legislation, and we are very grateful to both of you for coming, and to Ms. Parker for coming.

Ms. Parker, you are a great asset to these purposes.

Ms. PARKER. I have good words to translate.

Senator MOYNIHAN. Indeed, you do.

Associating myself with Senator Durenberger, I thank you all.

[The prepared statements of the preceding panel follow:]

STATEMENT OF ELMER C. BARTELS, COMMISSIONER, MASSACHUSETTS REHABILITATION COMMISSION

This statement represents the position of the Massachusetts Rehabilitation Commission with regard to four bills now before the Senate Finance Committee—H.R. 3236, H.R. 3464, S. 591 and S. 603. These bills would, among other things, remove certain work disincentives for disabled persons participating in the Supplemental Security Income (SSI) program and the Social Security Disability Insurance (SSDI) program.

The goal of the Massachusetts Rehabilitation Commission is to help disabled persons become engaged in productive, self-supporting, work activity. The Commission's ability to achieve its goal is greatly compromised by the provisions of the SSI and SSDI programs which deter disabled persons from seeking gainful employment.

Based on the Commission's experience, we believe that the proposed legislation would remove major barriers to disabled persons seeking employment. Below is the Commission's position with respect to each of the four bills.

1. The Commission supports S. 591 in its entirety. This bill would:

Make persons who once received SSI or SSDI benefits, but were later denied benefits because of substantial gainful activity (SGA), presumptively disabled for a period of five years when reapplying for Title XVI benefits.

Deem income earned in sheltered workshops as earned rather than unearned income.

Allow persons who meet or equal the medical listings to continue receiving cash benefits when earned income exceeds the SGA level up to the "breakeven point" (the point at which countable earnings equal the SSI benefit level).

Continue Title XIX (Medicaid) benefits to handicapped persons who meet or equal the medical listings whose earnings surpass the breakeven point, who continue to meet all other nondisability related requirements (except for earnings), and for whom the termination of Title XIX and Title XX benefits would make it extremely difficult, if not impossible, for a person to continue working.

Disregard earned income needed for impairment-related work expenses (e.g., attendant care, medical devices, equipment, prosthesis, etc.) in determining whether a person's earnings exceed the SGA level.

2. The Commission supports S. 603 in its entirety. This bill would:

Extend Medicaid benefits to individuals who reside in states which have medically needy spend down provisions and who become ineligible for Medicaid because of excessive earnings and/or resources but who continue to be medically disabled. They retain health coverage by contributing a portion of this income for such coverage.

3. The Commission supports H.R. 3464 in its entirety. This bill would:

Provide for a standard work expense disregard equal to 20 percent of gross earnings in determining payment level under Title XVI.

Provide for a disregard of impairment-related work expenses in determining payment level under Title XVI.

Limit deeming of parents' income to disabled children under age 18 regardless of student status.

4. The Commission supports H.R. 3236 in part. The Commission supports those provisions that would:

Deduct extraordinary impairment-related work expenses, etc. from earnings for purposes of determining SGA.

Extend the present 9-month trial work period to 24-months (during last 15 months of which, individual would not receive benefits if earnings exceed SGA level).

Extend Medicare for an additional 36 months to disabled beneficiaries who return to gainful employment.

Eliminate second 24-month Medicare waiting period where a person again becomes disabled and entitled to benefits.

The Commission does not support those provisions that would:

Limit the maximum amount of total benefits paid to future disabled workers and their dependents.

Reduce the number of years of low or no earnings that can be dropped in computing a younger disabled worker's benefits.

The Commission is pleased to make its views known to the Committee. For too long the federally sponsored income assistance programs have worked at cross-purposes with the federal-state vocational rehabilitation program. The work disincentives problem is a national one and can only be rectified by amending federal law.

Thank you for your consideration of this important issue.

STATEMENT OF GREG SANDERS, HALE ZUKAS, AND KAREN PARKER REPRESENTING THE CENTER FOR INDEPENDENT LIVING, BERKELEY, CALIF.

THE SUPPLEMENTAL SECURITY INCOME DISABILITY AMENDMENTS OF 1979

Late in the 95th Congress the Finance Committee studied the issue of work disincentives which prevent the disabled Supplemental Security Income (SSI) recipient from maintaining employment. After the Subcommittee on Public Assistance held a hearing on the issue the Finance Committee reported out a bill to reduce the impact of the disincentives present in the SSI, Medicaid and Title XX programs. However, the Congress adjourned before the bill reached the Senate floor.

Recognizing the significance and urgency of this issue, two bills targeted at SSI recipients with severe impairments were introduced in the Senate earlier this year. The House of Representatives responded to the issue in June by passing H.R. 3464, the Supplemental Security Income Disability Amendments of 1979. Similar to the vote in H.R. 12972 last year (399-4), H.R. 3464 passed the House 374-3.

This statement outlines the key issues which, in combination, create the work disincentives. It is important to emphasize that the discussion addresses only three areas of the Social Security Act: Title XVI (Supplemental Security Income), Title XIX (Medicaid) and Title XX (Social Services).

Supplemental Security Income, Medicaid and Title XX Social Services serve a very fundamental purpose—they provide for essential maintenance and health needs. SSI provides for necessary food, clothing and housing. Medicaid provides for health care as well as health-related items or care like prosthetic devices and personal care attendant services. Title XX provides a range of supportive services which may include job supervision for mentally retarded persons, mobility instruction for the visually impaired, homemaker services, etc. (Since Medicaid and Title XX are substantially affected by state-established standards, some services of major importance such as attendant care may be provided through Medicaid in some states and Title XX in others.)

For a particular individual the scope of services available through Titles XVI, XIX and XX may include:

SSI: $207 a month maximum federal grant with a state supplemental payment available in 24 states;

Medicaid: covering medical examinations, acute health care, physical therapy, wheelchair purchase and maintenance, medications, etc.;

Title XX: Providing attendant care or other specialized supportive services.

The significance of these programs is, certainly, not limited to maintaining recipients in a healthy living arrangement. The combination of income maintenance, health coverage and social services support an environment where an individual with a severe physical or mental impairment can pursue vocational rehabilitation or habilitation and, ultimately, employment. The current quality of services and technology create the very real opportunity for the great majority of citizens with severe impairments to seek meaningful work activity.

The dilemma of the work disincentives becomes clear when the opportunities created by the scope of current programs are blocked by concepts of disability which were dominant in the 1950's and remain in federal law. The term "disabled" became a viable part of the Social Security Act in 1954. When the Supplemental Security Income Program was implemented in 1974 it based the definition of "disabled" on the assumptions derived two decades earlier.

Section 1614 of the Social Security Act establishes that a disability can exist only if the individual is unable to engage in "substantial gainful activity" (SGA). The level of work activity which indicates SGA is prescribed in regulation by the Secretary of Health, Education and Welfare. Currently, SGA is indicated by services performed which represent the ability to achieve gross earnings of $280 per month, or by earnings derived from employment which exceed $280 per month. The *ability* to perform work activities is the basis for determining SGA. It is not necessary for an individual to receive payment or to actually perform any activities to be judged *able* to engage in SGA. Also, disability status will cease due to performance of SGA regardless of a severe impairment which is demonstrated by medically acceptable clinical and laboratory diagnostic techniques.

The SSI and Medicaid programs do have a mechanism to gradually reduce the level of benefits and services as income available to the recipient increases. Yet, the termination of disability status when earnings reach the SGA level causes an abrupt end to the gradual reduction process. The complete loss of SSI, Medicaid and linked social services due to a cessation of disability statue required the disabled individual to limit attempted work activity to services which do not indicate SGA, or to obtain employment which provides sufficient net income to replace all of these necessary services.

While some exceptional individuals can attempt a sudden transition from SSI status to self support, it is unrealistic to expect such action from the majority of persons with severe impairments. Similar to the typical unimpaired worker, the disabled employee will usually enter employment at a low level and work up a career ladder. Althouth a disability may not preclude the ability to pursue employment, a mental or physical impairment may certainly inhibit the ability to obtain rapid advances in the work force. For the physically impaired, developing stamina and learning to accommodate architectural barriers are as important as acquiring vocational skills. Likewise, cognitive ability is an important factor in determining the level of employment obtainable for the mentally retarded individual and the time necessary to acquire skills.

The work disincentive created by the definition of disability is therfore the consequence of two conflicting factors:

(a) Due to severe mental or physical impairments the disabled worker requires substantial time to achieve earnings sufficient to replace the benefits from Titles XVI, XIX, and XX, or the worker has the ability to perform services above the SGA level yet cannot be expected to achieve complete self support; and

The cessation of disability status due to engaging in SGA terminates benefits before self support is achieved, or prevents individuals from maintaining their maximum degree of self sufficiency. In a very real perspective, the disabled recipient with a severe impairment simply cannot afford to attempt work activity above the SGA standard.

In addition to the problems inherent in the definition of disabled there are major disincentives generated by the treatment of income in determining the SSI benefit payable to an individual.

As stated earlier, SSI and Medcaid have a mechanism which adjusts the level of assistance according to the income available to a recipient. Certain exemptions are granted before determining the amount of income considered to be available to meet the needs of the recipient, or "countable income". After countable income is determined, it is subtracted from the maximum allowable SSI benefit ($207 per month) and the difference is the amount provided to the recipient. Countable income in excess of the SSI standard is subtracted from the state supplementary payment (SSP), if any, and additional excess income becomes a "liability" which must be spent for medical needs before Medicaid coverage is allowed. (Specific treatment of excess income varies significantly due to state-established eligibility standards.)

Under current law, blind SSI recipients can exempt any expense reasonably attributed to the earning of income. The disabled SSI recipient *is not* entitled to this exclusion.

In order to maintain employment the disabled person must meet certain expenses. Included in these costs are expenses common to all workers (i.e., taxes, union dues, uniforms) and expenses necessary to accommodate a disabling condition (prosthetic devices, exceptional clerical assistance, attendant care, etc.). Because the cost incurred in maintaining employment is not available to meet basic living needs and are nonetheless considered as available income, the disabled worker may receive little or no fiscal advantage from employment. In fact, it is very possible for work expenses plus the reduction of countable income from the SSI benefit to be greater than gross earnings. Thus, the disabled individual may actually have less real income available to meet his or her needs due to attempting employment.

SSI recipients who receive income for services performed in a sheltered workshop or work activity center are affected by another disincentive generated by the treatment of income. The SSI program considers income in two categories, earned income and unearned income. In general, income derived from employment is treated as earned income and other income such as insurance benefits, alimony or interest from savings is treated as unearned income. Quite inappropriately, income from services performed in a sheltered workshop is treated as unearned income. Thus, the individual who participates in such employment is allowed to retain only $20 per month (the exemption for unearned income) and is essentially deprived of recognition for contributing a meaningful service. (Ironically, services performed in a sheltered work environment will be considered in determining disability status and may demonstrate the ability to engage in SGA. Yet, the income derived from such services is not treated as earned income.)

Beyond the problems already discussed there is another aspect to the issue of employment disincentives. By definition, it is the nature of SSI to provide essential daily needs. Yet, the average waiting period between application for SSI and receipt by the individual is 67 days. For 10 percent of blind and disabled applicants, the waiting time is over 90 days. The individual who leaves the SSI roles due to maintaining employment is in jeopardy if the work attempt fails and she or he must reapply for assistance. The very real potential of serious hardship in meeting subsistence needs pending renewed eligibility is a significant disincentive to attempting employment.

In summary, the work disincentives have been presented as four fundamental issues:

1. Difficulty in returning to the SSI program if an employment attempt fails;
2. The complete loss of SSI, Medicaid and linked Title XX services when disability status is terminated due to performance of substantial gainful activity (SGA);
3. The absence of an exemption for work-related expenses and impairment-related expenses for disabled recipients in determining the SSI benefit amount; and
4. Treatment of income received for services performed in a sheltered workshop as "unearned income".

The following text outlines these issues as they are addressed in S. 591 (Dole), S. 603 (Javits) and H.R. 3464 (Corman). The discussion focuses on the Senate bills and offers specific recommendations directed at a comprehensive solution to the employment disincentives.

PRESUMPTIVE DISABILITY UPON REAPPLICATION FOR SSI

Two approaches have been introduced to assure that if reapplication for SSI becomes necessary due to an unsuccessful employment attempt, benefits will resume in a timely manner. The administration proposed a one-year period following the termination of cash benefits where the disabled individual will maintain disability status. If the individual reapplies during this period benefits will begin as soon as non-disability related criteria for eligibility is met. Non-disability related criteria includes factors such as residency, living arrangements or restrictions on available income and assets. H.R. 757 (Stark) proposed a five-year period following the termination of cash benefits where the recipient will be presumed to be under a disability pending a formal determination of disability status. If the formal determination finds that a disability does not exist, eligibility will cease but no overpayment will be collected for the period in which the presumption of disability is granted.

The House passed H.R. 3464 combining the two concepts. After the termination of cash benefits a recipient will retain disability status followed by a four-year period where a presumption of disability will be granted pending a formal determination of disability status. If it is determined that a disability does not exist, eligibility will cease but no overpayment will be collected.

In the last Congress the Finance Committee passed a bill which granted a five-year period of presumptive disability pending a formal determination. The Committee accepted a recommendation from the administration that no overpayment be collected if it is eventually determined that a disability does not exist.

Section 1 of S. 591 will establish a five-year period of presumptive disability; yet it will require the collection of an overpayment if it is determined that a disability does not exist.

To achieve maximum administrative efficiency, we encourage the Finance Committee to amend Section 1 of S. 591 in a manner consistent with H.R. 3464. Thus, the recipient will retain disability status for 12 months after cash benefits are terminated and a presumption of disability will be granted if reapplication becomes necessary in the next 48 months. If it is determined that a disability does not exist eligibility will cease but an overpayment will not be collected.

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE A SEVERE MEDICAL IMPAIRMENT

In the 95th Congress H.R. 12972 approached the employment disincentives issue by redefining SGA to equal the "break even" point on the federal SSI benefit schedule. The SGA earnings limit will be raised to the level at which an individual's monthly countable earnings equal to the basic federal SSI benefit. With the SSI benefit of $207 per month the SGA level will be raised from $280 per month to $497 per month. The Finance Committee expressed significant concern that such action may encourage increased dependency by individuals with less severe impairments. The Committee also expressed concern that redefining SGA may impact upon the Title II Disability Insurance Program.

After studying the issue, the Finance Committee reported out a bill which minimized the potential for new eligibles and avoided any precedent which may impact on the Disability Insurance Program. Section 3 of S. 591 follows the principles supported by the Committee last year. In essence, eligibility for SSI, Medicaid and linked Title XX services are continued for certain individuals regardless of engaging in SGA. In the current process of adjudicating disability claims, a disability may be determined if an individual meets specific medical criteria prescribed in regulation by the Secretary of Health, Education and Welfare, or has an impairment of equivalent severity. Other individuals are determined to be under a disability if they have a medical impairment which does not meet or equal the criteria, but when combined with vocational factors which are extremely adverse it prevents the individual from performing work activity above the SGA level. Utilizing this distinction in the existing adjudicative process, S. 591 continues eligibility for essential benefits and services only for individuals who meet or equal the medical criteria prescribed by the Secretary.

We support Section 3 of S. 591 because it is responsive to the needs of persons with severe impairments and does not create the potential for unintentionally opening the SSI program to individuals with less severe impairments.

Yet, to assure appropriate consideration of the employment barriers for the full SSI population, we urge the Finance Committee to recognize the need for research and demonstration projects and to authorize the Secretary of Health, Education and Welfare to waive any requirements, conditions or limitations of Title XVI (SSI) for specified purposes. H.R. 3464 does provide for cooperative research and demonstration projects.

EXCLUSION OF CERTAIN WORK EXPENSES IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY

H.R. 3464 and S. 591 propose a revision to the definition of substantial gainful activity. A similar provision exists in H.R. 3236 (Pickle) which addresses reform of the Title II Disability Insurance Program. The following paragraphs discuss the proposed revision as it should apply to both Supplemental Security Income (SSI) and Disability Insurance (DI).

In the consideration of work expenses, both Houses of Congress have expressed a valid concern. For purposes of determining ability to engage in SGA, a distinction must exist between disability-related work expenses and work expenses common to the unimpaired worker, such as union dues, uniforms, taxes and other items. The Senate Finance Committee report on H.R. 12972 suggested that it is inappropriate for disability status to be influenced by nondisability related work expenses. In H.R. 3464, the Committee on Ways and Means acknowledges that only disability related expenses should be excluded from earnings in determining if an individual is engaged in SGA.

We recognize the legitimate limitation of considering only disability related work expenses in determining ability to engage in SGA.

However, under the provisions of S. 591 the cost of any services, care or items referred to in Section 4 are only excluded from consideration if purchased directly by the recipient. Disability-related needs are not considered if they are furnished without cost to the recipient. If a true determination of ability to engage in SGA is to exist, then the *need* for exceptional services must be the dominant factor. For purposes of determining the ability to engage in SGA, the funding source is not relevant.

Failure to disregard impairment-related work expenses regardless of who purchases the items or services will create a "revolving door" for SSI recipients. 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 about 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 continued working, the cost of necessary attendant care would have to be paid out of earnings. If the out-of-pocket impairment-related work expenses were disregarded for purposes of redetermining SSI eligibility, the person could then requalify for SSI benefits. The renewed SSI eligibility would requalify the individual for Title XX attendant care services, which would create a second termination of SSI eligibility.

To prevent this "revolving door" dilemma in the determination of SGA, impairment-related services, care or items referred to in Section 4 of S. 591 must be disregarded whether or not paid for by the disabled individual. In the development of H.R. 3464, the administration recommended excluding impairment-related expenses regardless of who purchased the services. Also, Section 4 of S. 591 specifically excludes from consideration as impairment-related items and services "routine drugs or other routine medical care and services". We recommend clarification of this sentence by adding ". . . unless such drugs or services are necessary for control of the disabling condition." This amendment would allow such items as routine medication for the control of an epileptic condition to be considered as impairment-related expenses in the determination of SGA.

EXCLUSION OF WORK EXPENSES IN DETERMINING BENEFIT AMOUNT

While S. 591 provides for the exclusion of certain impairment-related expenses in determining disability status, these expenses are not considered in determining the benefit amount. The intent of the SSI program is directed at assuring aged, blind and disabled individuals they will be able to meet subsistence needs. Accordingly, the process of determining the benefit amount must be based on earnings which are actually available to meet the recipient's needs. Under current law, the blind recipient may disregard from earnings any amount reasonable attributable to the earnings of that income. The disabled recipient has no similar disregard for reasonable work expenses.

The disabled community has consistantly stated that they are seeking a consideration of work expenses which provides exclusion of necessary expenses in a manner which is equitable to the taxpayer. In principle, the recipient should retain 50 percent of new income, and 50 percent should be returned to the taxpayer by a reduction in the recipient's benefit amount.

To accomplish this objective we support the process specified in H.R. 3464. In general, the existing disregard from earnings of $65 per month would be applied. Then, the cost of the impairment related services, care or items specified in section 4 of S. 591 would be disregarded if they were purchased by the recipient. Rather than performing the administratively awkward task of itemizing common work expenses (which is current practice for the blind recipients), 20 percent of gross earnings would be disregarded for such expenses as mandatory payroll deductions, uniforms and union dues. Finally, the existing disregard of 50 percent of the remaining earnings would be maintained and 50 percent would be reduced from the recipient's benefit amount.

This process is more restrictive than the work expense exclusion provided to the blind. Under current law the order of exclusions is more liberal for blind recipients. Specifically, the blind disregard the first $65 per month of earnings. Then, 50 percent of the remaining earnings are excluded. Before 50 percent is returned to the taxpayer by reducing the benefit amount, all reasonable work expenses are itemized and excluded from consideration as income. Thus, the benefit reduction varies between 0 percent to 50 percent of the remaining income, depending on the amount of work expenses. Clearly, there is no assurance that the recipient and the taxpayer will receive equal percentages of the net income.

In the 95th Congress, the Senate Finance Committee reported favorably on the amended H.R. 12972 which included the disregard of attendant care expenses in determining benefit amount. As the Senate discussed the Supplemental Security Income Disability Amendments of 1979, we urge the Members to recognize the equity for both recipients and taxpayers inherent in the work expense provisions specified in H.R. 3464.

MEDICAID AND TITLE XX SERVICES

Two Senate Bills, in combination, provide a comprehensive approach to resolving the existing employment barriers in Medicaid and Title XX: S. 591 and S. 603. It is essential that the Senate act on *both* bills to protect the delivery of necessary medical assistance and social services for individuals with severe impairments.

S. 591 provides the fundamental assurance that the severely impaired recipient who engages in SGA will not be penalized by having access to fewer services than the unemployed recipient. Section 3(b) of S. 591 provides for purposes of Title XIX and Title XX, individuals who establish eligibility on the basis of medical severity will be considered categorically linked to SSI if they meet all non-disability standards, except earnings. In general, this linkage will continue until the Secretary determines that the loss of the benefits or services will not jeopardize the individual's ability to continue employment.

Since all nondisability requirements, except earnings, must be met before S. 591 protects a recipient, severely impaired individuals with a source of unearned income in excess of the SSI benefit will not be relieved of the employment disincentives.

However, federal law (Title XIX—Medicaid) grants states the option to provide medical coverage to "medically-needy" individuals with income in excess of the SSI benefit level. Through a spend down process, the excess income is applied toward the recipient's medical needs before Medicaid coverage is granted. If the recipient meets the definition of disability set forth in Section 1614 of the Act (SSI), the State receives at least 50 percent federal matching funds for Medicaid services provided to the medically-needy recipient.

Under current law, the federal financial participation is not provided if a state continues Medicaid coverage to the medically-needy recipient who ceases to be legally disabled due to engaging in SGA. The state must terminate the recipient's Medicaid coverage or assume 100 percent of the costs for the medical services provided to the recipient.

S. 603 would provide that for purposes of Title XIX, recipients with severe impairments would be considered disabled regardless of engaging in SGA. The provisions of S. 603 apply only to disability status. The recipient must still meet all nondisability eligibility standards established by the federal or state governments. The recipient must still apply all excess income toward his or her medical needs before receiving Medicaid coverage.

Since continuation of Medicaid coverage to the medically-needy is a state option, 15 states do not provide such coverage. In the 35 states which do provide coverage to the medically-needy, there is substantial variation in the state established eligibility standards. Thus, S. 603 cannot guarantee adequate Medicaid coverage to recipients in all states as the federal government does not, under current law, have the authority to establish uniform standards for the medically-needy.

In conclusion, S. 603 will facilitate a gradual reduction in Medicaid coverage as a recipient's income increases by continuing federal support for services provided to severely impaired individuals who engage in SGA. Although S. 603 cannot mandate Medicaid coverage, it does remove the disincentive for states which elect to include coverage for such medically-needy individuals in their Medical Assistance Program. Section 3(b) of S. 591 will provide the fundamental assurance that no severely impaired individual will be penalized for attempting employment. By maintaining the categorical linkage to SSI, S. 591 will protect recipients in all states (except Arizona which has no Medicaid program).

We strongly support S. 603 and Section 3(b) of S. 591.

ELIMINATING THE DEEMING FROM A PARENT FOR STUDENTS BETWEEN 18 AND 21

Under current law, students between 18 and 21 who reside in the household of their parent may be ineligible for SSI because the income and resources of the parent is attributed to the student in determining eligibility. Except for students, deeming from parent to child stops at age 18. Thus, if a recipient between 18 and 21 does not attend school, he or she does not deem the parent's income or resources. If the same recipient attends school, deeming does occur and SSI eligibility is jeopardized. To prevent this disincentive to complete education, H.R. 3464 eliminates the deeming from parent to child at age 18.

We urge the Senate to similarly remove the disincentive for a recipient between 18 and 21 to complete his or her education.

Senator MOYNIHAN. Now our last witness is Mr. Gary Lohn, who is the vice president of public affairs of Control Data, Inc.

Senator DURENBERGER. Mr. Chairman, if I may, I have a brief statement that I would like to have made part of the record.

Senator MOYNIHAN. We will make it part of the opening record, if that is agreeable.

Senator DURENBERGER. I have known Gary Lohn for some years.

Senator MOYNIHAN. Would you like to put your statement in at this point?

Senator DURENBERGER. Why don't I put it at this point in the record?

[The prepared statement of Senator Durenberger follows:]

Several months ago, when the Disability Insurance Reform Amendments appeared to be stalled in the House of Representatives, I introduced legislation, S. 1643 which incorporated one section of the Amendments. My bill was prompted by a concern about the disincentives in current law which inhibit the severly disabled from returning to work. Some argue that the disabled do not return to work because the disability programs provide so much in income that they have no incentive to seek gainful employment. I am not convinced that this is the case. The real problem lies in the fact that if a disabled person dares to rehabilitate themself and seek work, that person is immediately cut-off from the benefits which they received while disabled. The most serious drawback is the loss of Medicare benefits. The bill I introduced would correct that problem by providing for a continuation of benefits.

Experts in the field of rehabilitation know the value of employment for the disabled person. They also know the difficult problems that exist for the disabled person who seeks a job and, in so doing, jeopardizes the necessary health and financial benefits he or she receives under the various public and private programs.

Widely recognized and most important is the fact that Social Security programs, which provide monthly payments and medical protection, include highly restrictive provisions that discourage and often prevent people from attempting gainful work. Examples of these inhibitive provisions are:

The low earning level constituting substantial gainful activity;

Two consecutive years of receiving Social Security disability benefits required for medicare eligibility;

One trial work period lasting nine months, and applicable once in a person's lifetime; and

Re-entitlement to financial and medical benefits necessitates a second waiting period, similar to the initial entitlement to benefits.

We can and must do more for people who are disabled. We must change the restrictive provisions and promote improvements in the law to encourage employers to provide employment alternatives to severly disabled persons. These programs can be successful ventures for both the employer and employee, as one example demonstrates.

In January, 1978, Control Data Corporation, headquartered in Minneapolis, developed Project "HOMEWORK." HOMEWORK is a homebound employment program made possible through Control Data's computer-based education system called PLATO. Through "HOMEWORK," a select group of Control Data's permanently and totally disabled employees have re-entered the world of work.

Due to the encouraging results of the HOMEWORK experiment within Control Data, other major corporations within the United States have expressed an interest in having Control Data help them establish a HOMEWORK program for their company's disabled employees.

The most significant obstacle HOMEWORK has encountered since its inception is the disincentives currently contained in the Social Security regulations and law. Even though each HOMEWORK has been declared permanently and totally disabled by Social Security, the mere fact that each person attempts to work potentially leads to a discontinuation of all financial and medicare benefits.

Passage of S. 1643 would remove legal obstacles to the disabled returning to productive employment. Today we will hear from Gary Lohn, vice president of Control Data, who will review how their program assists the disabled. I appreciate the chairman providing us with an opportunity to present this important testimony.

Senator MOYNIHAN. I see, Mr. Lohn is from Minnesota.

Senator DURENBERGER. I want to be sure that you value as I do both his perceptions of the problem we are dealing with here today. We used to be in the corporate social responsibility business together.

I particularly want to accent for members of the committee who may not be as familiar as you are, Mr. Chairman, the work that Control Data Corp. has done for a variety of persons, whom we would think would have nothing to do with the use of computer systems.

One of these is a computer system, which Gary will talk about today, and you have a little orange brochure that you can glance at while he is giving his 5-minute presentation.

I am very proud of Control Data and the witness that you are about to hear.

Senator MOYNIHAN. We are very happy to have you, Mr. Lohn. Please go right ahead.

STATEMENT OF GARY LOHN, VICE PRESIDENT OF PUBLIC AFFAIRS, CONTROL DATA, INC.

Mr. LOHN. Thank you very much. It is a pleasure to be here. In the interest of time, I will cover the highlights of the lengthier written presentation.

Senator MOYNIHAN. Take your time.

Mr. LOHN. I believe that Senator Long asked that we keep it down to 5 minutes, and I think we can do that.

Also, as Senator Durenberger indicated, there is a brief brochure available.

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 12 years ago, and 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.

Most 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 objective of Homework is to provide training and employment alternatives to the severely disabled homebound population. Currently, there are more than 2 million Americans classified as being homebound because of a severe mental and/or physical disability.

Homework evolved within Control Data Corp. 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 Plato technology.

The first Plato terminal was installed in August 1978 in the home of one of the first 12 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 programing, remote student tutoring and other functions.

It is important to emphasize that all of these people are totally and permanently disabled per social security definitions, and most are ineligible for State rehabilitation services due to the severity of their disabilities.

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. On the contrary, Homework will become an employment alternative for the disabled population throughout the Nation. In fact, other major employers have contacted us to assist them in developing a program like Homework for their disabled population, which we view as a business opportunity.

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 to 75 percent.

Self-concept and confidence levels have increased substantially.

Improvement in family relations has occurred.

Higher level of self-care is realized.

Enhanced intellectual and cognitive functioning is apparent.

These preliminary findings parallel results from a 7-year study on homebound rehabilitations 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 the 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.

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 the legislation enacted by the Congress.

First, substantial gainful activity demonstration projects as identified in H.R. 3236, H.R. 3464, and S. 1643 should be broad enough to include a cooperative partnership between the public and private sectors in addressing substantial gainful activity levels and trial work periods. Participation of the private sector and disabled individuals must not only be encouraged, but should be driven with attractive incentives for all parties included.

Second, 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.

Third, Control Data believes that the risks are too great for a severely disabled person to seek employment unless there is a legislation enacted that permits both a reasonable level of earned income and social security disability insurance benefits. While the specifics of reasonable levels are beyond the scope of this discussion, some meaningful level is required of earned income.

Fourth, 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 or her employment responsibilities, but also his or her normal daily functions.

Fifth, the waiting period for medicare eligibility, currently 2 consecutive years after financial eligibility is determined, should be nonconsecutive and made shorter than the 2 years now required and still being 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 authorized by Senator 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.

We thank you for the opportunity to present our views.

Senator MOYNIHAN. Mr. Lohn, witnesses like you make Senators like me wish we were from Minnesota. [Laughter.]

Mr. LOHN. Thank you, sir.

Senator MOYNIHAN. Senator Durenberger?

Senator DURENBERGER. I appreciate that.

Senator MOYNIHAN. I would like to thank Mr. Lohn so much for a touch of reality from the point of view of the employer.

Would you tell us just a little more about some of the number. Do I take it that Homework is a program whereby you first train, and then employ persons to use the training that they have acquired?

Mr. LOHN. That is true.

Senator MOYNIHAN. What kind of work do they do?

Mr. LOHN. We currently have the program operating in three different phases. We are in the training phase in all of them at this point, partly because instead of giving salaries, which contradicts the social security rules, we give training stipends to the people involved.

The first group is involved with the Plato terminal I described in creating course material that we will be developing.

Senator MOYNIHAN. They are working with other people in Control Data just like students in laboratories learning how certain kind of instruction can best get done. Is that it?

Mr. LOHN. Yes; they are working each in their own home all over the country—there are 12 of them involved in that first phase—with a couple of people in our headquarters in Minneapolis who, through the on-line communication capabilities of the terminal, can interact with them immediately. So it is virtually the same as being in the laboratory.

Senator MOYNIHAN. In training these people, are you also learning what is involved in training such persons?

Mr. LOHN. We are training these people to be developers of course material for our education business.

Senator MOYNIHAN. They, themselves, will be the developers?

Mr. LOHN. Yes; they will be, and they have nearly completed. By the end of this month, we will have completed a 15-hour course on the Pascal computer programing language. It is not all computer people who are in the program, I should point that out. There is a second group of people who will be in jobs as computer programers when they complete their training.

Senator MOYNIHAN. I see, you have people who may have mobility disabilities, and things like that, but who are quite up to becoming instructors in teaching people how to use a computer program, and learn a computer language which they would, thereupon, use in some other work.

Mr. LOHN. Yes; or to do computer programing.

I should emphasize that each of these persons will be employed in their home, long term.

Senator MOYNIHAN. The Homework is, in that sense, handed out like women used to take sacks home and sew them as homework.

Mr. LOHN. I guess that this is an analogy; yes.

Senator MOYNIHAN. People used to work in their home all the time. Women used to take work home from factories, sewing and the like.

Mr. LOHN. With modern technology, that is a very easy thing to do.

Senator MOYNIHAN. They are working at their console in their home like they might be working at it in downtown Minneapolis.

Mr. LOHN. Yes; at their own pace, and at their own time. The jobs are structured so that they can be performed that way. Interestingly enough, we expected when we started that people might work about 20 hours per week, and most of them are working over 30 hours per week, and some of them much, much more. So we are very excited about the way they have responded to that opportunity.

Senator MOYNIHAN. I see that Senator Dole is here, and knowing that we have to be on the floor at 4 o'clock, let me turn to him right away.

Senator Dole has been one of the stalwarts of these endeavors in this committee. This year, as last year, we are going to get a bill, but this year, unlike last year, we will get one that will make a difference, I think.

It would be very helpful to us if we could get on the record some specifics here. Please describe for someone who does not fully understand it how the programing work gets to the worker. It is not like the woman in the 19th century who took sacks home to sew. She would go to the factory and get the sacks, or maybe they brought them around to her.

Mr. LOHN. It is all transmitted by the computer terminal itself in the case of the coursework development activity.

Senator MOYNIHAN. Describe for us, as you envision it, the process when it is mature. The programing is a different function than that of actual accounting work done with computers. It is, in effect, setting up the account.

How do you transmit the work? Is it through printouts, which the person then works from?

Mr. LOHN. It can be done either with printouts or via a CRT terminal instead of printing it. We will have, for the people doing computer programing work, both vehicles in the home available to the participants. Typically, the work can be transmitted electronically. The written material may come back in the mail, or vice versa. But the key thing is that they are all tied together in this electronic network with terminals in the homes and the computer main frame in Minneapolis.

Senator MOYNIHAN. Give us a touch of reality, Mr. Lohn. Control Data has the job, what kind of a job is it, what does it do?

Mr. LOHN. Essentially, computer programing is taking some existing data and putting it into an electronic format, either writing a program or operating a program. I guess that work can be done at the person's home as well as it can be done in an office.

Senator MOYNIHAN. Would that be figuring out the bills for the local electric utility company, or would it be figuring out some of their accounts, for example?

Mr. LOHN. It could be almost any type of skill that is related to the computer industry. It could be doing some programing related to construction analysis of a new bridge, or a variety of kinds of work.

Senator MOYNIHAN. Such things as traffic flows downtown, and things like that.

Mr. LOHN. Yes.

Senator MOYNIHAN. This is work that Control Data does. That is what you do, you do that work for people.

Mr. LOHN. Yes.

Senator MOYNIHAN. You sell them this service, and you find that it can be done by the handicapped, who can do it at their home. You do not actually have this on line, but you are well into the development process, and you expect to have people working at it.

Mr. LOHN. Yes. In the case of the programing job, which is the second phase of the program, we now have all of the people in that computer programing training course, which is delivered in their home via the terminal. At the point in time that they are qualified computer programers, some of whom will be ready within a month, and they have only been in it for a couple of months, because it is individualized education, we will be doing programing work from home.

The first phase of people have been involved in developing course material, developing questions for tests related to the delivery of that course, and other similar functions from their home electronically.

Senator MOYNIHAN. I get you.

I note that you said that you gave training stipends to these persons because the existing SSI legislation would preclude your paying them enough, the consequences of payment being the loss of medical benefits primarily. That clearly is an absurd arrangement.

Mr. LOHN. We learned something in that process certainly.

Senator MOYNIHAN. You found that the prudential considerations of these persons who you want to put to work were such that at this point they could not take a job. They could take training, and accept training which is something that a company can give away.

Mr. LOHN. Existing social security disability insurance provisions, created substantial risk for disabled people to enter Homework. So the assurance we gave to our employees was that, as their employers we would underwrite any losses in SSDI benefits they would incur as a result of their participation in Homework.

Senator MOYNIHAN. That is something that Control Data can do, but a local department store had better be careful.

Mr. LOHN. The point is that without the kind of legislative changes that we are talking about here today, the whole notion of expanding this kind of opportunity to 2 million homebound disabled is going to be severely limited.

Senator MOYNIHAN. That insurance risk is something a firm of your size could assume, but a small business could not be reasonably expected to take that on. It would not have any insurance at that point.

Mr. LOHN. That is true.

Senator MOYNIHAN. That is very clear to us. That is why we have these bills before us, and we mean to go ahead with them.

Senator Durenberger, would you like to say something in closing?

Senator DURENBERGER. I appreciate your interest, Mr. Chairman, and your own sense of reality. I appreciate very much the fact that I know you know that we don't dream up solutions to problems. The ideas and suggestions for S. 1643, which is not the complete way to solve all these problems, but I think a realistic way, came principally from the people at Control Data who have been working with this problem for the last 2 years.

Senator MOYNIHAN. Another example of the corporate influence in the Finance Committee.

The much awaited hour has arrived, and we have to go back and fuss with the House of Representatives about the continuing resolution to keep the Government going at all, however so badly.

Senator Dole, did you want to say something?

Senator DOLE. I am just sorry that I missed some of the witnesses. I was here yesterday, and we had a good discussion. I am certain that you have had another good discussion today. I have inquired if there were comments made in reference to S. 591. I understand some of the witnesses did comment on that legislation, and I look forward to reading the record.

Thank you.

[The prepared statement of Mr. Lohn follows:]

STATEMENT BY GARY H. LOHN, VICE PRESIDENT, PUBLIC AFFAIRS CONTROL DATA CORP.

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 bring 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 restriction. 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 H.R. 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 or 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.

Senator MOYNIHAN. We will look forward to marking up legislation. We thank all our witnesses. We are particularly graced by the presence of the former Secretary of HEW, the incomparable and indomitable Wilbur Cohen.

[Whereupon, at 3:55 p.m., the committee adjourned, subject to call of the Chair.]

[By direction of the chairman the following communications were made a part of the hearing record.]

STATEMENT OF NATIONAL FARMERS UNION

Mr. Chairman and Members of the Finance Committee, I am Ruth E. Kobell, Legislative Assistant for the National Farmers Union, a membership organization of 350,000 farm families.

We are seriously concerned about the consequences of H.R. 3236 which would make major changes in the worker disability coverage provided by the present Social Security program. We want to express our opposition to the bill which you are now considering. We believe it would make unwise and unnecessary cutbacks in disability benefits for those most in need. Further, we believe it would destroy the people's confidence that the benefits for which they pay their Social Security payroll taxes would be maintained and would not be reduced at the whim of Congress or by a temporary shift in the political climate.

Farming is one of the most hazardous of occupations and young beginning farmers who become disabled would be among the victims of this bill. They would be condemned to a lifetime of poverty and desperation.

Disability insurance, as it has been managed by the Social Security Administration, has been a conservative program with only those who are permanently and totally disabled qualifying for benefits. There is usually no hope that the disabled person can be rehabilitated and return to an occupation that would provide sufficient income for the disabled worker and a family.

The reduction in benefits proposed in H.R. 3236 may save some money for the U.S. Treasury, but it would be at the expense of the young families of disabled workers. It would be a severe handicap in the maintenance of stable homes and families.

The Board of Directors of the National Farmers Union approved a resolution on June 14, 1979, at a meeting in St. Paul, Minnesota, opposing the passage of H.R. 3236. In their resolution, Board Members stated that they felt that, although there might be some savings to the Social Security system as a result of this bill, the savings were not sufficient to justify the severe hardships which it would bring to the lives of disabled workers, those most in need of help.

NATIONAL MULTIPLE SCLEROSIS SOCIETY,
Washington, D.C., October 11, 1979.

Hon. RUSSELL B. LONG,
Chairman, Finance Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is the testimony of the National Multiple Sclerosis Society concerning H.R. 3236. The denial of our request to testify surprised us, but we accept the assurance in the telegram indicating that our written statement will be "given the same consideration as though delivered orally".

We have concentrated our statement on what we oppose in H.R. 3236 because the issue of the cap on family benefits and the reduction of low earning dropout years would have such a harsh and discriminatory impact on persons who become disabled by Multiple Sclerosis. We intend to communicate with you and other members of the Finance Committee prior to markups concerning our support of many of the legislative changes as proposed in H.R. 3464, H.R. 3236, S. 591, S. 603, and S. 1643, especially as they focus on the partial removal of present work disincentives. Our separation of testimony and subsequent communications is for the purpose of conveying our view that no bill with Sections 2 and 3 of H.R. 3236 is supportable, even if it contains the best of all the other sections and bills.

The National Multiple Sclerosis Society is proud of its 34 year record on behalf of the one half million citizens who have MS or closely related neurological disorders. We have received splendid support from the public because we commit most of these charitable contributions to biomedical research concerning the cause and cure, and to direct services to persons affected by MS. We have chapters serving every county in the Nation, and send a newsletter to about half of our estimated 900,000 contributors. Our National Board of Directors includes some of the Nation's most prominent business and community leaders.

Persons who have MS, family members, voluntary leaders and staff of our Society, have been substantially involved in formulating and communicating the position of our Society on this issue. The matter is of extraordinary importance to us.

Sincerely yours,

SYLVIA LAWRY,
Executive Director.

WRITTEN TESTIMONY BY THE NATIONAL MULTIPLE SCLEROSIS SOCIETY, MISS SYLVIA LAWRY, EXECUTIVE DIRECTOR

Mr. Chairman and members of the Committee, on behalf of the National Multiple Sclerosis Society and the estimated one-half million citizens of this country who have been, or will be, affected by MS, as well as their families, and including citizens and their families afflicted with closely related neurological disorders, we appeal for your attention and careful consideration of amendments to the Social Security Disability Insurance law. If you take sufficient time on this matter, we believe you will discover that:

1. Sections 2 and 3 of H.R. 3236 are insensitive and inappropriate remedies to the problem of work incentives and will not produce the desired results.

2. There is no need to rush legislation which reduces future benefits. It does not produce savings in fiscal year 1980, and the DI trust fund is presently estimated to be in good shape for the next 75 years.

3. When the real facts finally break through, some of the misleading rhetoric on the positions which are defendable before the general public as well as before disabled constituencies will not include the contention that DI beneficiaries would earn more (net or gross) by not returning to work if they are able. Such a situation is almost impossible in the present law except in some unusual instances when the maximum family benefits result in an income which is less than one-half of the poverty level and also below what an employed individual would earn at the "minimum wage" level.

4. Disabled citizens and representative organizations are very strongly in favor of removing the work disincentives and improving the Social Security laws so that disabled individuals can contribute to their family income when and as they are able. We feel equally strongly about disabled individuals receiving insurance benefits sufficient to survive in a dignified manner when they are simply unable to be employed. H.R. 3236 does not meet this simple balance.

The National Multiple Sclerosis Society with chapters covering every county in the Nation, is a not-for-profit organization which will raise about 30 million dollars this year and spend nearly all of it on biomedical research related to finding the cause/cure, and for services to persons with MS. We have a proud and distinguished record among the major national health agencies. We have been and are the primary national group directly representing the interests of the estimated 500,000 persons with MS and closely related neurological conditions.

In this instance, we stand alongside every other agency we know representing disabled citizens in firm opposition to the proposed Social Security Disability Insurance Amendments as they come to you from the House, namely H.R. 3236.

Since MS is usually misunderstood, we are usually inclined to describe in some detail how Multiple Sclerosis affects people. We are goind to skip most of that and focus directly on how the proposed cap and the reduction of dropout years would affect future beneficiaries with MS.

We have opposed Sections 2 and 3 of H.R. 3236 because we feel they would be especially harsh on persons with MS and similar disabling conditions. While Section 2 (the cap on family benefits) would reduce benefits of "only" 25 percent of all future disabled beneficiaries, it would affect more than one-half of future beneficiaries, disabled by MS—and the reason is simple: MS usually strikes in the 20 to 45 year age bracket after people have started a career and begun a family.

Section 3 of H.R. 3236 (the reduction of dropout years) greatly diminishes one of the present laws' important adaptations to the clinical course of multiple sclerosis and other erratic and often progressively debilitating diseases. While this "adaptation" was completely unintentional—that is, dropout years were introduced for another purpose—it has tended to bring greater fairness to the calculation of benefit levels for those citizens whose diagnosis is MS. What often happens is that people with MS work an erratic pattern as the unpredictable exacerbations and remissions and resultant functionally disabling conditions permit. This obviously tends to produce some additional low earning years. Not infrequently, people with MS will accept employment substantially below their skill level to compensate for the effects of the disease or because of the general pattern of job discrimination. This, too, reduces the basis for computing "averaged indexed earnings." Eliminating or reducing the dropout years for people with MS would have the effect of creating a new work disincentive—in total contrast to the basic focus of the legislation. We favor a provision in the law which would protect persons diagnosed with MS from the potential of reducing their future benefit level by continuing to work after the disease begins to affect their capabilities; we believe such a provision could be devised to cover many other "permanent" disabilities.

Most workers do not pay much attention to the benefit levels of Social Security Disability Insurance because the chances are slight that they as individuals will need to apply for disability benefits. And most conditions which cause disability do not give direct warning or notice. Thus, most of the people who will be affected by H.R. 3236 are presently non-disabled and are represented in this matter by their labor union or church or organization looking out for their retirement and security program in general or by people and groups who bring expertise and experience to the field of Social Security law and regulations and programs. We represent people, may of whom have already had several attacks from MS and who contemplate the probabilities of their own future disability and need for these benefits.

For purposes of demonstrating how this proposed combination of cap on family benefits and reduction of dropout years will affect persons disabled with MS, we constructed a realistic but hypothetical case. It follows a young male college graduate who married at age 24, has two children by age 28, has steady career progress, and then is hit by his first attack of multiple sclerosis. He works for another seven years on an erratic basis as the disease permits. At the age of 35, with two preteenagers, a wife not yet in the labor force, substantially increased medical and other related expenses, and an absolute inability to hold a job or even function by himself, he applies for Social Security Disability Insurance benefits. In nine of the last 15 years, he has paid into the Social Security at the maximum amount, and was very close to the maximum amount in another two of those years. Lower earnings in the remaining four years were associated with attacks of MS and the need to shift jobs several times as a direct result of the effects of MS, and possible to some degree the job discrimination he faced as a result of MS. He applies for DI benefits in January 1980, when he becomes unable to work or care for himself.

On a separate sheet, we are submitting the earning pattern of this case and the various figures necessary to calculate what the man would be entitled to receive in 1980 in maximum family benefits according to the present law and also if H.R. 3236 becomes law. It shows that under present law he would receive $806.42 per month in maximum family benefits (which will still be under the "poverty level" for a family of four in 1980). If H.R. 3236 became law, he would receive maximum family benefits of $677.58 per month; the difference between the present law and that proposed by H.R. 3236 is $128.84 per month, even though no amount of benefit reduction can be an effective incentive for this man to return to work since he simply cannot.

While such a person as this case proposes would be at the high end of the benefits level, under even the present law he would have an income which in gross dollars is less than one-third of what he probably would have been earning if MS had not hit him, and in this particular case, would have an income in real dollars of slightly more than half of the average gross amount he earned in the previous years. After one looks at the reduced expenses as a result of non-taxable benefits income and elimination of work related expenses, as well as the increased expenses unique to the disabling condition, including attendent care, transportation, barrier removal, etc., a comparison of the "net" incomes to support his family are probably close to the same proportion as the gross figures. The difference would be even greater if the same man had earned some money after school and during the summer during high school and/or college. The reason is that he would have more low earning years which he could not "dropout."

The lower benefits resulting from the cap and/or the reduction of dropout years also would affect persons with MS who have earned at average and moderate wage rates. It would impact in a particularly destructive fashion on many young mothers whose employment, family and personal lives have been greatly altered as a result of MS; this is the case in spite of the provision related to dropout years while mothers are caring for children under the age of six.

We believe the Committee members and staff should request of the Social Security Administration case descriptions and actual earning records and benefit level provisions for a number of somewhat typical disability situations. It is our very strong conclusion that the more you are exposed to the real facts, the less acceptable as public policy you will find the proposed changes of H.R. 3236.

We believe you will discover:

1. It is almost impossible to receive higher DI benefits than wages from returning to work at the type of job one previously held. This is true even when all reasonable assumptions about net income are considered.

2. People receiving DI benefits are among the most severely disabled citizens; reducing benefits will not work as an incentive for most since they are simply unable to be employed on a full time basis. What is needed is a stronger public policy and program which enables such individuals to benefit from rehabilitation whenever possible and subsequently to work part time or as their disability permits without the threat of loss or reduction of future benefits. Removal of the disincentives is only one aspect of a complete plan for dealing with this very difficult problem.

3. Disabled individuals in general have incomes of about one-half the level of non-disabled persons. Moreover, most severely disabled persons have incomes below the poverty level, but would still be better off working than collecting DI benefits when or if they are able to work.

4. For people with MS there are a number of work disincentives in the Social Security Act, some of which would be reduced by the changes proposed in H.R. 3236. But these improvements do not ameliorate or counterbalance the especially harsh results which Sections 2 and 3 would have on persons with MS.

Much of the rhetoric and even some of the studies and reports on this subject are misleading or inaccurate or deceptive. For example, numbers of decision makers and staffers in the House still believe it was necessary to support H.R. 3236 in order to preserve the financial integrity of the trust fund, despite the fact that the trustees and even the Committee Report clearly indicate that is not the case.

Reducing benefits has been supported by some people primarily as another addition to the cost reductions for the fiscal year 1980 budget estimates. In fact, it is not until subsequent years when savings would occur according to the Committee Report. The net effect of the bill for fiscal year 1980 is an increase of $25 million according to the Congressional Budget Office cost estimate in the House Committee's Report. Therefore, consideration of this bill does not need to be rushed to satisfy a budget resolution.

In conclusion, we want to reiterate the extraordinary concern we have with this matter on behalf of people with multiple sclerosis and their families. We urge you to outright reject H.R. 3236 and call for a new set of hearings in the second session of the Congress with the purpose of devising a legislative remedy which will deal with the problems in the present law without also doing real harm to many persons who are very severely disabled and their families.

We believe there are better solutions. We are prepared now, or within the next several months, to help devise better solutions. We appeal to this Committee to take the time to get the true facts before you propose to change the Social Security Disability Insurance benefit levels affecting some of the most severely disabled citizens in ths Nation.

HYPOTHETICAL CASE OF A DI BENEFICIARY WITH MULTIPLE SCLEROSIS WHO QUALIFIES FOR BENEFITS AFTER JANUARY 1, 1980

Assume a male college graduate, married at age 24, with two children by age 28, who experiences his first attack of MS at age 28. He continues to work when he is physically able thereafter as he experiences periods of exacerbations and remissions. He becomes more disabled and at age 35 he can no longer work or even care for himself. He is eligible for Social Security Disability Insurance benefits; in fact, he and his employer have contributed to the fund at the maximum amount during nine years and at nearly the maximum amount for an additional two years. The other four years his lower earnings were the result of the effects of multiple sclerosis.

Assuming the following pattern of earnings, under the present law he would be entitled to receive maximum family benefits of $677.58 per month, a decrease of $128.54 per month.

His gross income under the present law would be less than one-third of the amount he would most probably have earned if MS had not disabled him. His gross income under the present law would be 67 percent of his average indexed monthly earnings; a careful examination of the chart demonstrates that the benefit level is about one-half of what the man was able to earn in a good year after he was stricken with MS.

Age	Year	Probable pattern of annual earnings	Actual annual earnings	Countable annual earnings for social security	Wage indexed accountable annual earnings for social security
21	1965	$5,400	Same	[1] $4,800	$10,630.19
22	1966	5,900	Do	5,900	12,326.88
23	1967	6,800	Do	[1] 6,600	13,061.29
24	1968	9,000	Do	[1] 7,800	14,443.37
25	1969	10,500	Do	[1] 7,800	13,654.27
26	1970	12,000	Do	[1] 7,800	13,008.71
27	1971	12,700	Do	[1] 7,800	12,386.34
28	1972	15,000	Do	[1] 9,000	13,016.32
29	1973	18,100	$3,200	3,200	4,355.50
30	1974	20,000	7,000	7,000	8,993.07
31	1975	22,500	16,500	[1] 14,100	16,854.99
32	1976	25,000	3,000	3,000	3,354.68
33	1977	27,000	17,500	[1] 16,500	17,407.50
34	1978	29,800	5,400	5,400	5,400.00
35	1979	32,000	19,200	19,200	18,199.32

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[1] Maximum

Present law AIME = $1202.99, PIA = $469.30, Max Family Benefit = $806.42 Proposed law (H.R. 3236) AIME = $1085.78, PIA = $451.72, Max Family Benefit = $677.58 The bottom line is a disabled father whose family benefits are 16 percent less under the proposed law even though he is absolutely unable to return to gainful employment

STATEMENT OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

The NAM is a membership organization of over 12,400 members of every size and industrial classification located in every state. An additional 158,000 businesses are affiliated with it through the National Industrial Council. Our members produce approximately 75 percent of the goods manufactured in the United States, and over 80 percent have 500 or fewer employees. On behalf of these members, this statement is submitted to the Senate Committee on Finance during its consideration of the disability Insurance System.

This statement will address topics which the NAM knows are of major interest to this Committee, but we also believe that a few brief comments about the Social Security system generally are in order to put this statement on the disability program in proper perspective.

During the hearings which preceded the 1977 Amendments, the NAM made specific recommendations for Congressional action to solve both the imminent short-range financing problems as well as the long-range deficits facing the system. At that time it was the disability fund which was facing the more severe short-range problem, as compared with the old-age survivors fund. The eventual legislation passed by the Congress and signed by the President did substantially include many of the NAM proposals which were important in restoring the solvency of the system.

The NAM opposed reopening all of the issues involved in Social Security financing in 1978. It continues to believe that thorough and careful study of the system such as that being done by the Committee presently will provide the opportunity for appropriate legislative action for issues which should be addressed by Congress.

We believe that it is appropriate for this Committee to take up the disability question at this time. In the report, "Actuarial Condition of Disability Insurance—1978," prepared for the Subcommittee on Social Security of the House Ways and Means Committee and dated February 1, 1979, it is estimated in 1978 that the outgo from the fund will be approximately $300 million less than expected. This is an encouraging indicator that such factors as better economic conditions and better administration are resulting in a slowing down of the rapid expansion of the disability system. It is impossible to predict whether the favorable 1978 experience will continue into the future, and the NAM believes that further action by the Committee is appropriate at the present time, especially in the area of benefit amounts limitations in order to achieve further cost reductions and better system design.

The NAM previously testified before the Subcommittee on Social Security of the House Ways and Means Committee in support of H.R. 3236, the Disability Insurance Amendments of 1979. this bill was subsequently passed by the House of Representatives. The NAM believes that this proposal represents a major step in improving accountability in the disability program and in providing a proper balance between disability benefits and incentives for returning to the work force.

While it will not reduce any benefits of current beneficiaries, the NAM believes that H.R. 3236 will result in long-run cost savings to the system and improve the operation of the system in carrying out its purpose. Such savings will be achieved at a time when weakened public support for Social Security can be strengthened by improving the system's fiscal integrity.

Congressman Pickle, the Chairman of the House Subcommittee, noted in his remarks at the opening of the Ways and Means hearings that there is evidence that, in 1977, 6 percent of disability awards actually increased the disabled person's after-tax income and almost one-fifth of the awards produced earnings replacement ratios of more than 80 percent. Such benefit levels, we believe, are too high and result in unnecessary increases in claim costs. Private insurance statistics show that plans with replacement rates in excess of 70 percent have disability incidence rates two-thirds higher than the average, and plans with replacement rates below 50 percent have incidence rates one-third below average. Congress now has before it various proposals to limit the amount of disability benefits. We believe that there is a need to place a cap in the law similar to this proposal, and we support it.

H.R. 3236 proposes an 80 percent cap on AIME and a limit of 1½ times the primary benefit. We believe that there is a need to place a cap in the law similar to this proposal, and we support it.

In a related matter, the NAM shares the Committee's concern over disproportionately high benefits being paid to younger disabled workers who are allowed to drop out a fixed number of low earnings years for benefit calculations, allowing them to base benefits on relatively higher earnings years.

Finally, H.R. 3236 calls for various reforms calculated to make it easier for disabled workers to return to gainful employment. We will not comment on each individual "reform," but we will be supportive of attempts to develop meaningful changes making it easier for those interested in returning to the work force to do so without severe economic hardship if their disability should prevent complete resumption of work. At the same time, we would hope that part of such a "reform" package would include quality periodic review of cases in which a disability was deemed not reasonably certain to be permanent so that undisclosed incidents of recovery will be traced and handled accordingly.

We hope that these comments will be useful to the committee in its consideration of the disability retirement issues, and we thank you for the opportunity to appear. The NAM stands ready to work with this Committee as its explores other issues of mutual concern.

SUMMARY OF PVA STATEMENT

PVA opposes H.R. 3236 because it would cut benefits to future DI recipients under the age of 47 and those with families to support. There is no need to reduce benefits at this time, because benefit levels were reduced significantly by the 1977 amendments. Few DI recipients are able to return to work because of the severity of disability required to qualify for benefits under the program, yet the benefit cuts would affect all new recipients—regardless of employability—in those beneficiary categories.

We support the modest work incentive provisions in H.R. 3236, but few DI recipients will be able to use them, particularly since current recipients would be subject to the new lower benefit levels if they had to return to the DI rolls. Thus, PVA opposes H.R. 3236 and urges that it be defeated.

STATEMENT OF PARALYZED VETERANS OF AMERICA

Mr. Chairman and distinguished Members of the Finance Committee, PVA is pleased to have this opportunity to present to you our views on legislation affecting the social security disability insurance program. Paralyzed Veterans of America is chartered by Congress, and currently has approximately 10,000 members. All of our members are permanently and totaly disabled as a result of spinal cord injury or disease, and all of our members also are veterans of the U.S. armed services.

At the present time, 87 percent of our members are unemployed, and most of these individuals are eligible for social security disability insurance. For our members who became injured after they left the service, social security disability insurance generally represents the major source of income. It is for these reasons that PVA is very concerned about the charges being proposed for the social security disability insurance program in H.R. 3236.

OPPOSE H.R. 3236

PVA, along with numerous organizations representing disabled persons, veterans, the elderly, minorities, children, and religious groups, opposes H.R. 3236. Although H.R. 3236 contains several modest work incentive provisions which would be beneficial to severely disabled persons who are able to return to some kind of employment, the benefit of those provisions is outweighed by the severe benefit cutbacks proposed in sections 2 and 3 of the bill. If H.R. 3236 is passed, future beneficiaries with the greatest need—those with families to support and those who become severely disabled at a young age—will have their benefit levels reduced.

A number of reasons have been given by the bill's proponents for the proposed cutbacks. They have said that benefit levels are too high, that high benefits discourage disability insurance recipients from returning to work, and that reducing benefits thus will remove this "disincentive" to employment. In addition, they claim that younger workers receive higher benefits than older workers.

EFFECTS OF THE 1977 AMEMDMENTS ON BENEFIT LEVELS

The 1977 refinancing amendments significantly reduced disability insurance benefits to all persons who qualified for benefits after January, 1979. These reductions in benefit levels were brought about by the development of new benefit determination formulas, both for the individual benefit (PIA) and for the maximum family benefit allowed for a particular pre-disability earning level. In addition, prior earnings were "indexed" in current dollars to reduce the disparity in benefits between younger and older disabled persons. Thus, benefits to all newly-eligible disability insurance recipients already have been reduced as of January 1, 1979, and the disparity in benefits due to the age of the disabled worker no longer exists.

CURRENT BENEFIT LEVELS

PVA questions the apparent assumption that disability insurance benefits are "too high." As can be seen by the following table, disability insurance benefits for individuals and families are significantly lower than average lifetime earnings; and average lifetime earnings generally are much lower than earnings immediately prior to onset of disability.

Average indexed monthly earnings based upon all covered lifetime earnings	Individual benefit level (PIA) under current law	Maximum family benefit level under current law	"Cap" proposed in H R. 3236
$100.00	$121.00	$181.50	$121.00
150.00	135.00	202.50	135.00
200.00	168.40	252.60	168.40
250.00	184.40	276.60	200.00
300.00	200.40	300.60	240.00
350.00	216.40	324.60	280.00
400.00	232.40	351.50	320.00
450.00	248.40	395.00	360.00
500.00	264.40	438.60	400.00
550.00	280.40	482.10	420.60
600.00	296.40	525.60	444.60
650.00	312.40	569.10	468.60
700.00	328.40	612.60	492.60
750.00	344.40	639.00	516.60
800.00	360.40	660.40	540.60
850.00	376.40	681.90	564.60
900.00	392.40	703.30	588.60
950.00	408.40	724.80	612.60
1,000.00	424.40	746.20	636.60
1,050.00	440.40	770.60	660.60
1,100.00	453.80	794.10	680.70
1,150.00	461.30	807.20	691.90
1,200.00	468.80	810.30	703.20
1,250.00	476.30	833.50	714.40
1,300.00	483.80	846.60	725.70

MOST DI RECIPIENTS ARE TOO DISABLED TO RETURN TO WORK

PVA also questions the assumption that lowering benefits to young, severely disabled workers and disabled workers with families will provide these recipients with an "incentive" to return to work. Disability insurance recipients must be severely disabled to qualify for benefits in the first place; in fact, 70 percent of those who apply for benefits initially are turned down. In other words, most people who receive disability insurance benefits receive them because they are too disabled to work. Reducing their benefits will cause severe financial hardships for those unfortunate enough to become disabled while they had a family to support or while they were young.

LOWER LEVELS WILL DISCOURAGE EMPLOYMENT AMONG DI RECIPIENTS

Although a small percentage of disability insurance recipients might be above to return to some form of employment, the benefit cuts in H.R. 3236 will serve as a strong deterrent to employment of these persons. If a current beneficiary leaves the DI rolls for more than fifteen months, that person becomes subject to the new, lower benefit levels. Thus, few current beneficiaries will be able to risk lowering their benefits in the future by attempting employment for the present.

WORK INCENTIVES IN H.R. 3236

PVA strongly supports incorporating work incentives into the DI program to allow severely disabled persons who can work to do so. Again, we must stress that only a small percentage of DI recipients could return to work in the future. However, those who are able to work certainly should be encouraged to attempt employment. For these reasons, we support extending the trial work period and extending Medicare coverage for DI recipients who return to work. In addition, we support excluding from countable income disability-related work expenses. Because of the benefit cuts proposed in sections 2 and 3 of H.R. 3236, though, it is doubtful that DI recipients would be able to take advantage of these modest work incentive proposals.

SUMMARY

To summarize, PVA opposes H.R. 3236 because of the reduction in benefits to future DI recipients under the age of 47 and to those with families. We strongly urge the Finance Committee to oppose this bill.

STATEMENT OF MARTIN BLUM, PRESIDENT, THE NATIONAL ASSOCIATION OF DISABILITY EXAMINERS

Mr. Chairman and Honorable Members of the Committee, we regret not having the opportunity to testify before your committee although we did make such a request in a letter sent to Mr. Michael Stern, you staff director, on September 25, 1979.

However, we do trust that our written comments will serve equally well in presenting the views of the National Association of Disability Examiners (NADE) on the Disability Amendments of 1979 (H.R. 3236).

NADE is comprised of approximately 1,500 individuals performing a variety of functions in connection with the Disability Program. The vast majority of our members are employed by the 54 State Agencies (DDS's) under contract with the Social Security Administration to adjudicate Social Security disability claims. There are more than 9,000 employees in these State Agencies.

Included in our membership are disability examiners, supervisory staff, Quality Assurance personnel, DDS Administrators, medical staff, and clerical personnel. Although founded originally in 1966 as a Division of the National Rehabilitation Association, our Association has been an independent organization since September of 1978. We have endeavored to work through our own resources, and in cooperation with other individuals and organizations, to improve the management and accountability of the Social Security Disability Program as well as affording our membership an opportunity for input into the direction of their own careers.

The National Association of Disability Examiners supports and endorses passage of the Disability Insurance Amendments of 1979 (H.R. 3236). We view this legislation as offering many substantial improvements in the Disability Program, particularly those provisions of the Bill aimed at providing incentives for disabled individuals to return to work and the efforts to strengthen the federal government's ability to manage the Program. We would like to focus on this latter item, as detailed in Section 8 of the Bill.

In the past NADE has recognized and helped identify the weaknesses of the federal-state structure whereby the Disability Program, although 100 percent federally funded, afforded management prerogatives to the individual DDS's which often were not in conformity with federal goals and standards. The federal government had to rely, to a large extent, on the willingness of the individual DDS Administrators to adopt and implement federal policies with virtually no power to enforce them. This has resulted in marked differences and discrepancies in what should be a uniform program. What we have now are 54 DDS's administering the Disability Program in accord with their own interpretation of how it should be administered. The resultant lack of uniformity has been well documented by various studies over the years, especially the 1976 and 1978 GAO Reports.

The federal government's recent efforts to increase their control of the Disability Program through revision of the federal-state agreements has met with failure, due to the states reluctance to yield any of the control they have exercised since the inception of the Program 25 years ago. Although 21 states have signed the new agreement this figure is misleading since many of these signatures were obtained only after "letters of intent" were introduced which had the affect of diluting many of the contract provisions aimed at increasing federal management.

NADE, of course, has advocated total federalization of the Disability Program as the best means of achieving complete federal management and a uniform system of adjudication. We still believe, as do many other knowledgeable individuals and organizations, such as former SSA Commissioner Robert Ball, Arthur E. Hess, the first Director of the Bureau of Disability Insurance, and the AFL-CIO, that this would be the optimal approach to improving the administration of the Disability Program.

However, we are cognizant that, for a variety of reasons, it may not be feasible to accomplish complete federalization at this time. We see in this Bill a determined effort to accomplish through legislation what has not been achieved through federal-state Agreements; viable federal management of the Disability Program.

With the long, well-documented history of the states refusal to accept federal mandates, we believe passage of this Bill will prove intolerable to many states and they will exercise their prerogative to turn over to the Secretary the function of making disability determinations.

Let us then look at the likely consequences of such an action. The law will require a minimum of 180 days for the state to continue to make disability determinations after notifying the Secretary that they are giving up the Program. What type of service will be provided to the disabled citizens of the involved state during this minimum 6 month transition period? How will DDS employees be able to maintain the kind of dedication needed to process disability claims in a "lame duck" job scheduled to end in 6 months? Undoubtedly, without guarantees that they would maintain their jobs if the federal government took over the disability function of a State Agency, experienced personnel would leave the Disability Program. To replace experienced personnel new disability examiners would have to be hired and trained; and this would be a costly and time consuming process.

Through the urgings of the membership of NADE, Congressman J. J. Pickle introduced an amendment to Section 8 of H.R. 3236, which was incorporated into the Bill, providing for the Secretary of HEW to develop a plan, to be reported to Congress by January, 1980, of how he would utilize DDS personnel in the event the federal government assumed the functions of a State disability agency. While this amendment holds promise for providing safeguards to State Agency disability personnel, NADE feels strongly that, rather than relying on the Secretary's plan, this Bill should be further amended to include the protective language found in H.R. 8076 (95th Congress); namely, that all state career employees who are employed in the Disability Unit as of the date of termination of an agreement should be converted to federal employment. Also, that all State agency career personnel be protected in the critical areas of pensions, leave credits, salary rates, and full credit for past state service.

It was acknowledged in the House Social Security Subcommittee Print entitled "The Disability Adjudication Structure" dated January 29, 1978, that "the State Agencies are the greatest reservoir of talent in the disability program." NADE believes that the disabled citizens of this nation deserve the security of knowing that their claims will continue to be handled by the best qualified personnel by incorporating in this legislation the safeguards requested to ensure the retention of State Agency disability personnel under any federal takeover of a DDS.

Mr. Chairman and members of the Committee, we appreciate the opportunity of offering, for the record, the views of the National Association of Disability Examiners on the Disability Insurance Amendments of 1979. We would be happy, if you feel the need, to appear before your committee at some future date or to answer in writing any questions you may have pertaining to this statement.

STATEMENT OF PHILIP R. MAYO, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and Members of the Committee, thank you for the privilege of presenting to this most distinguished Committee the views of the more than 1.85 million men and women of the Veterans of Foreign Wars of the United States with respect to H.R. 3236, the "Disability Insurance Amendments of 1979."

Mr. Chairman, we wish to address our comments to sections two and three of H.R. 3236, introduced for the purpose of amending Title II of the Social Security Act to provide better work incentives and improved accountability in the disability program (SSDI), and for other purposes. We believe these sections of that bill to be punitive in nature, especially to younger, minority or educationally disadvantaged Vietnam-era veterans. Recognizing that this measure contains other provisions of a progressive and desireable nature, provisions which would benefit many disabled recipients under this program, we strongly urge this Committee to strike the provisions of sections two and three from this legislation prior to its enactment.

In studying currently available benefits under SSDI, we find that both the individual benefit amount and the maximum family benefit are structured such that beneficiaries with lower average earnings receive a greater percentage of benefits to earnings than those whose average pre-disability earnings were relatively high. This, we feel, is as it should be inasmuch as those who would be most adversely effected in the long term by the sudden and catastrophic disability or illness are those with the lowest incomes. These recipients can least afford health and income protecting insurance in the private sector. They are also the least able to afford the additional multitude of expenses brought about as a result of their disabilities, as well as being the most likely to have dependents to support, be they men or women.

As it is currently written, H.R. 3236 provides that workers under the age of 47 years who quality for benefits after January 1980 would be eligible for reduced benefits as compared to those who are eligible under current law. The reduction in benefits would be caused by (as provided in section three of the bill) the phased reduction in the number of drop-out years, with the greatest loss of drop-out years being borne by the young. They will not be automatically entitled to the full five year exclusion, so more years of low earnings will be "averaged in" to determine their average lifetime earnings, thereby reducing this benefit to them. This provision of H.R. 3236 fails to consider that those who qualify for disability benefits at younger ages must be among the most severely disabled of all disability recipients in the first place. That is, older disabled workers may become eligible for benefits as a result of the combination of the factors of their age, education, training and work experience.

In addition, H.R. 3236 fails to reckon with the adverse impact of the stabilization of "freezing" of the average earnings level of the young at the time they become disabled. While their non-disabled counterparts continue to expand their economic base and increase their earnings capacity as a result of the expansion of the national economy and their mobility, the young disabled worker benefits only from cost-of-living increases. Thus, with the adoption of this measure, the young, severly disabled worker starts with a lower level of benefits coupled with the certain expectation of losing ground to his non-disabled peers in increasing his income producing economic base.

Mr. Chairman, H.R. 3236 (section two) also proposes to prospectively limit family benefits to 1.5 times the individual benefit amount (PIA), or 80 percent of average indexed monthly earnings (AIME), as long as the family received at least 100 percent of the amount to which the individual would otherwise be entitled. Considering the tax exempt status of such benefits, at first glance this limitation appears both reasonable and equitable. However, upon closer examination, we find that it may be the source of a significant negative impact upon young disabled workers with families. The reduction in the number of drop-out years would cause the average earnings level, upon which the family level may be based, to be lower. In addition, this "cap" is based upon the fact that the spouse, if working, would continue to do so, which may or may not be the case. Where the spouse must remain home to attend to the disabled person, there is obviously a great loss of income. Should the spouse continue to work, the family often must hire others to clean and maintain the home, drive a car for them, and shop for them. Such severely disabled individuals with families may also find it necessary to employ others to bathe them, feed them, dress them, and cook for them. We therefore submit that the frustrating, many times unsolvable, problems of the financial burden brought about by the advent of severe disability have not been fairly addressed in the deliberations leading to the drafting and advancement of this legislation.

Mr. Chairman, an assumption propounded in H.R. 3236 is that disability insurance recipients are able to return to work, perhaps in large numbers, and to selectively and prospectively reduce benefits would induce future recipients to do just that. Implicit in this assumption is that such benefits may be easily obtained; that severely disabled individuals may be "malingerers." We believe that such benefits are not easily obtained; that severely disabled individuals are, by definition, exactly that. It is interesting to note that current law does not acknowledge the concept of a partially disabled worker under the disability insurance program. Nor does current law offer the inducements of continued income support and health insurance protection (virtually impossible for the severely disabled to obtain commercially) under Medicare to persuade the severely disabled individual to return to the mainstream of the workforce. Consequently, a disabled person either does not work at all and is considered disabled, or he attempts to return to work, thereby risking ineligbility under the program, with low income a probability and with little or no health insurance protection.

We would also add the observation of the Honorable Elliott H. Levitas of Georgia, a proponent of this measure, as rendered during debate on the floor of the House of Representatives on September 6, 1979: "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."

We conclude therefrom that there are serious questions as to who is not able to return to work, brought about in part by the lack of oversight necessary in the administration of the disability insurance program.

Mr. Chairman, many concerns have been voiced during intense debate on this issue regarding the cost of the disability insurance program and the financial solvency of the Social Security program as a whole. It has also been observed that many young people are skeptical of receiving benefits under the program by the time they would become eligible for such. Much of the initiative resulting in the legislative proposal before you has been based upon a series of estimates, using assumptions that we believe may well be inaccurate. We submit that legislative initiatives based on such estimates and assumptions would be premature and would further erode citizen confidence in an already maligned Social Security system. We are compelled to observe that the National Commission on Social Security has yet to make its recommendations to the Congress with respect to inequities, needed changes, and suggested legislative action to improve the Social Security program, studies and recommendations due to be completed within the next several years. For your information, as well, we quote the words of Robert M. Ball, Commissioner Social Security from 1962 to 1973, who wrote in the Washington Post of August 9, 1979, the following:

"According to the latest estimates of the Board of Trustees of the Social Security trust funds, the benefits and administrative costs of the system can be met for the rest of this century by a contribution rate of 5.5 percent of earnings. (The maximum on the earnings counted rises to $29,700 in 1981 and then rises automatically in proportion to the general increase in the wage level.)

"In the next century, according to the trustees, if the proportion of retirees to earners increases as much as they expect, the contribution rate would have to be higher. Some 50 years from now the rate might need to be as high as 8 percent for an entirely self-financed system. Even this 8 percent rate in the distant future, however, would not seem to justify the kind of concern about Social Security financing now being expressed in various magazine and newspaper articles. For example, German workers and their employers each pay 8 percent currently for old age, survivors' and disability insurance even though the cost of about one-fifth of the German system is borne by other revenue sources . . . but the point to be stressed is that the system works just as it is, and it works well. There is no crisis. Thirty-five million beneficiaries—one in seven Americans—get a check every month, on time, and in the right amount, and those who are working today can count on getting their Social Security benefits when they in turn become eligible."

Mr. Chairman, the more than 14,000 voting delegates to our most recent National Convention held in New Orleans, Louisiana, this past August felt so strongly with respect to this issue that they adopted Resolution No. 761, entitled "Social Security Disability Insurance," a copy of which is appended to our testimony.

In conclusion, Mr. Chairman, we believe that H.R. 3236 should not be advanced without striking from it those sections which, in the name of fiscal restraint, would reduce benefits only to those recipients who are the most severely disabled and who have been demonstrated to have the greatest need, including our Nation's Vietnam-era vetrans. We believe hastily formulated legislative initiatives to alter the disability insurance system an unnecessary and precipitous undermining of the confidence in and financial soundness of that system. We quote the Honorable Claude Pepper of Florida, who said during floor debate in the House of Representatives on September 6, 1979:

"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."

RESOLUTION NO. 761.—SOCIAL SECURITY DISABILITY INSURANCE

Whereas, legislation has been introduced in the Congress of the United States, identified as the "Disability Insurance Amendments of 1979," H.R. 3236, and such legislation has been reported to the full House of Representatives by the Committee on Ways and Means; and

Whereas, this legislation would reduce benefits for future disability insurance recipients by reducing the number of drop-out years of low earnings from five years for those age 47 or over, to four years to those age 42 to 46, and three years for those 37 to 41, two years for those 32 to 36, one year for those 27 to 31 and no drop-out years for those under 27; and

Whereas, the pending legislation would establish a "Cap" on maximum family benefits which would have a significant negative impact upon all newly disabled workers with families; and

Whereas, the President, in a message to Congress on welfare reform stated that "Even in a period of austerity and fiscal stringency" the Nation "cannot afford to ignore its more needy citizens;" and

Whereas, the pending legislation would, in fact, curtail benefits for future beneficiaries who were productive but now in need due to their disabilities; and

Whereas, the so-called cost-savings provisions of this legislation would be at the expense of totally incapacitated former wage earners, including younger disabled veterans and their families; now. therefore

Be it resolved, by the 80th National Convention of the Veterans of Foreign Wars of the United States, that we oppose in the strongest possible terms, the passage of H.R. 3236, or similar legislation.

Adopted by the 80th National Convention of the Veterans of Foreign Wars of the United States held in New Orleans, Louisiana, August 17-24, 1979.

TESTIMONY OF LESTER STROM ON BEHALF OF THE REHABILITATION FACILITIES OF WISCONSIN

I am the Executive Director of the Rehabilitation Facilities of Wisconsin, a private, non-profit association of 50 rehabilitation facilities and sheltered workshops serving approximately 5,000 handicapped citizens of Wisconsin. Approximately 75 percent of the disabled persons served by our member agencies are eligible for Social Security Disability Insurance, Medicare, Supplemental Security Income, or Medicaid.

There are powerful financial disincentives to employment which arise in Social Security programs for the disabled. A small increase in a disabled beneficiary's gross wages can result in the loss of hundreds of dollars of disability benefits. These disincentives are in direct conflict with the mission of vocational rehabilitation agencies.

I wish to offer the Committee, as part of my testimony, a collection of six detailed case examples of disabled residents of Wisconsin who have decided to reject offers of employment, refuse pay increases, and refuse additional hours of work because of employment disincentives arising in Social Security programs for the disabled. Although I am providing only six concrete examples of this problem, we estimate that there are actually 1,500 disabled beneficiaries, in Wisconsin alone, whose work activity is being influenced by employment disincentives.

The Rehabilitation Facilities of Wisconsin is opposed to the passage of H.R. 3464 in its present form because the bill would actually increase disincentives to full-time, minimum-wage employment in Wisconsin. A comparison of Graph No. 1 and Graph No. 2 will illustrate this deficit.

The Rehabilitation Facilities of Wisconsin supports the passage of S. 591, introduced by Senator Dole, but with the following recommendations:

1. Section 5 of H.R. 3464, regarding Research and Demonstration Projects, should be included in S. 591.
2. Section 6 of H.R. 3464, regarding the Termination of Attribution of Parental Income and Resources When Child Attains Age 18, should be included in S. 591.

3. Section 8 of H.R. 3464, regarding the Continued Payment of Benefits to Individuals Under a Vocational Rehabilitation Plan, should be included in S. 591.

4. Section 3 of S. 591 should be modified to extend SSI eligibility to the "break-even" point of combined Federal and State SSI benefit levels. In its present form, S. 591 appears to ignore the state supplementation of Federal SSI benefits. Examination of Graph No. 3 will reveal that S. 591 would leave a $93 "notch" in the net income curve of many SSI recipients in Wisconsin. We propose that this "notch" be removed, as illustrated in Graph No. 4.

The Rehabilitation Facilities of Wisconsin is in favor of several provisions of H.R. 3236, including: The creation of demonstration authority; extending the Trial Work Period to disabled widows, disabled widowers and disabled surviving divorced wives; elimination of the second 24-month waiting period for Medicare; and continued payment of benefits to individuals under vocational rehabilitation plans.

However, we are disappointed by the fact that H.R. 3236 stops short of dealing with the major sources of employment disincentives in the Disability Insurance program, particularly since the changes which would be required are relatively simple and inexpensive.

The following changes in the Disability Insurance program are recommended for your consideration:

1. The trial work period (TWP) should no longer be limited to 9 months in duration

Under the Social Security Act, individuals are not considered to be disabled unless they have a medical impairment which prevents them from engaging in Substantial Gainful Activity (SGA). In 1979, persons who earn more than $280 in gross monthly wages are considered to be doing SGA. Individuals who engage in SGA after their TWP is exhausted are no longer considered to be disabled, regardless of whether they still have a medical impairment.

We do not propose any change in the SGA level. Instead, we recommend that the TWP be modified. During a month of Trial Work, a beneficiary is still considered to be disabled even if earnings exceed the SGA level.

Unfortunately, there are predetermined time limits on the TWP which substantially reduce its value as a means of facilitating entry into employment. The TWP cannot exceed nine months in duration. In addition, any calendar month in which gross earnings equal or exceed $50 will be counted as a month of Trial Work. Further, a beneficiary becomes eligible for a second TWP only if he or she recovers from a disability and then becomes disabled a second time, provided that the second disability begins more than five years after the end of the first disability.

Taken together, these restrictions on the TWP can cause a beneficiary to totally exhaust his or her once-in-a-lifetime TWP before gross earnings ever exceed the SGA level. If you will examine the case examples included in my testimony, you will see repeated examples of how this can happen. For these beneficiaries, the TWP has proved to be totally worthless.

To correct this situation, we propose that:

1. There be no limit on the number of TWP's a beneficiary may enter, and that;
2. The TWP would start when gross monthly wages exceed the Secondary SGA level (currently $180 in gross monthly wages), and that; and
3. The TWP would stop when: (a) Earnings fall back below the Secondary SGA level, or when (b) medical recovery from impairment occurs, or when (c) Disability Insurance cash payments have been reduced to zero on a sliding scale of benefits.

This brings us to our second recommendation:

2. During a trial work period, cash benefits should be offset by wages at a rate which takes work expenses into account.

Currently, during a month of Trial Work, a disabled beneficiary receives the full amount of his or her usual benefit payment, regardless of the level of earnings.

We propose that, during a month of Trial Work, the beneficiary's payment be reduced by:

1. Seventy-Five percent of the amount by which gross wages exceed the Secondary SGA level or, at the option of the beneficiary,
2. One Hundred percent of total gross wages minus the following amounts: (a) necessary expenses reasonably attributable to the earning of income, and (b) impairment-related expenses, incurred by the beneficiary, which are necessary for the individual to remain employed, regardless of whether such expenses are also necessary to enable the individual to carry out normal daily functions.

This formula for benefit reduction would allow beneficiaries to maintain their pre-employment financial status after taxes, union dues, tools, uniforms, and transportation expenses associated with employment have been taken into account. Further, the impairment-related expenses of more severely disabled beneficiaries would be recognized and taken into account as well. The proposed benefit reduction rate would enable beneficiaries to make the gradual and difficult transition from financial dependency to self-sufficiency without the financial mishaps which can presently occur.

It is important to note that the implementation of this proposal would not increase the incentive which already exists for persons to reduce their earnings below the SGA level in order to become beneficiaries of the Disability Insurance program. Because almost all earnings in excess of work expenses will reduce disability benefits dollar for dollar, there will be no change in the financial attractiveness of the Disability Insurance program to potential applicants.

3. Medicare eligibility should be extended to the working disabled

Persons with disabling medical impairments are frequently denied standard health insurance coverage in the private sector. Their application for private insurance may be rejected; or they may be charged a higher-than-normal premium; or they may be offered policies with substantially restrictive riders and preexisting conditions limitations. Because Medicare eligibility is coupled to eligibility for Disability Insurance, employment disincentives are intensified by the fact that medical impairments can reduce insurability in the private sector.

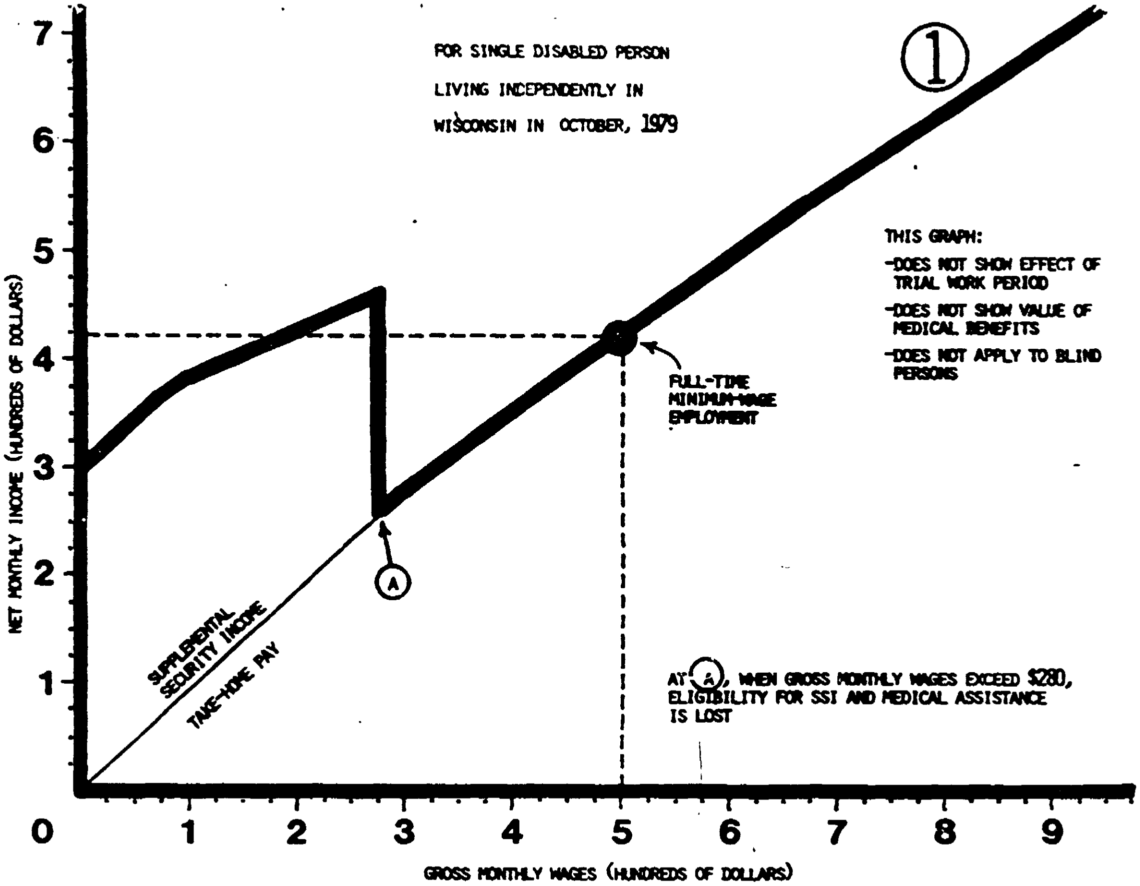
It is with considerable interest that we observe that persons aged 65 or over, who are not eligible for Social Security cash benefits, are nevertheless eligible for "voluntary enrollment" in the Medicare program if they pay a monthly premium of $78. "Voluntary enrollment" is allowed only during the months of January, February and March of each calendar year. Medicare coverage then becomes effective in July of the year in which the individual enrolled in the program.

This same program of "voluntary enrollment" should be available to disabled persons whose Disability Insurance payments have been terminated solely because of excessive earnings.

The three changes which we have proposed for the Disability Insurance program would not be expensive. On the contrary, we project potential savings to the Disability Insurance program of $115 million during the first three years of implementation. An explanation of this projected saving is included in my testimony.

Graph No. 6 illustrates our recommendations regarding the Disability Insurance program. Graph No. 5 illustrates the present situation in the Disability Insurance program.

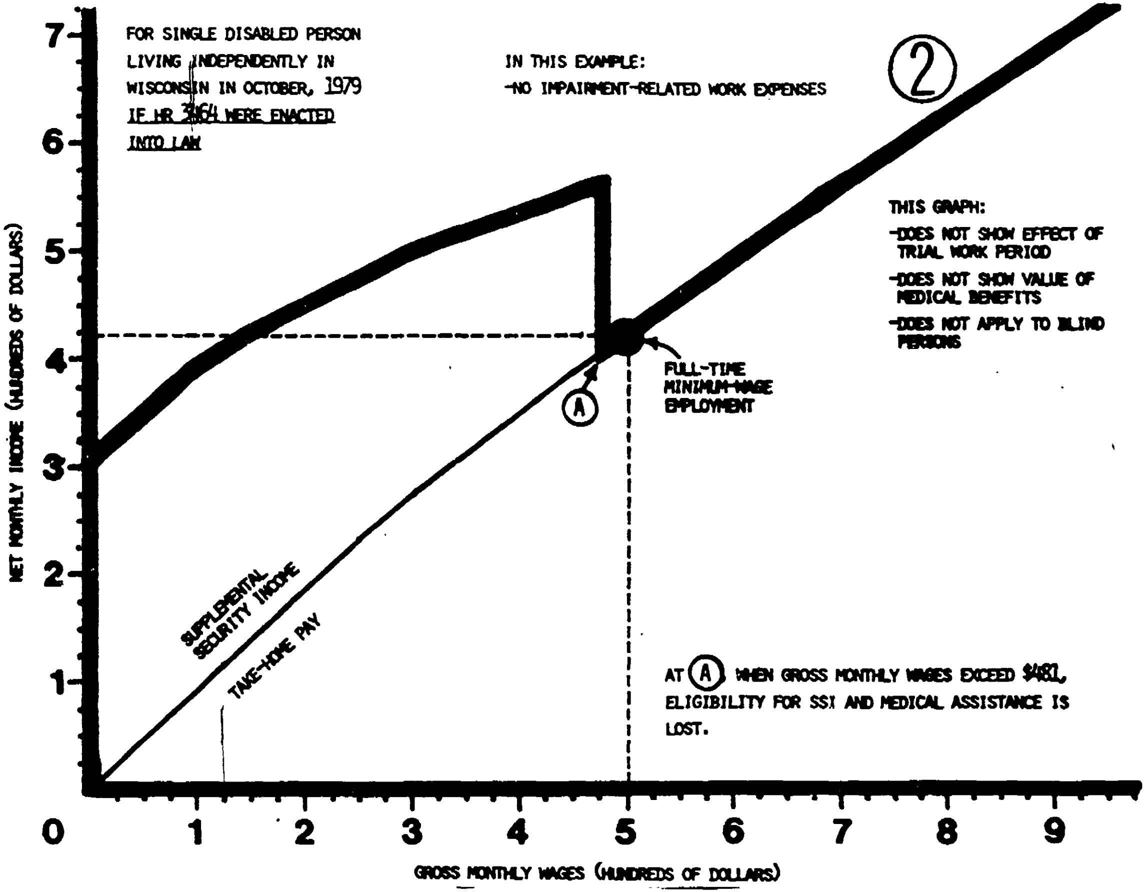
Disincentives to employment which arise in Social Security programs for the disabled create significant obstacles to the vocational rehabilitation or disabled individuals. The Rehabilitation Facilities of Wisconsin is hopeful that the Senate will be able to respond, in a timely and thoughtful fashion, to the plight of disabled citizens who are attempting to reduce their dependence upon disability benefits by becoming productive, tax-paying employees.



FOR SINGLE DISABLED PERSON
LIVING INDEPENDENTLY IN
WISCONSIN IN OCTOBER, 1979

THIS GRAPH:
- DOES NOT SHOW EFFECT OF TRIAL WORK PERIOD
- DOES NOT SHOW VALUE OF MEDICAL BENEFITS
- DOES NOT APPLY TO BLIND PERSONS

AT Ⓐ, WHEN GROSS MONTHLY WAGES EXCEED $280, ELIGIBILITY FOR SSI AND MEDICAL ASSISTANCE IS LOST

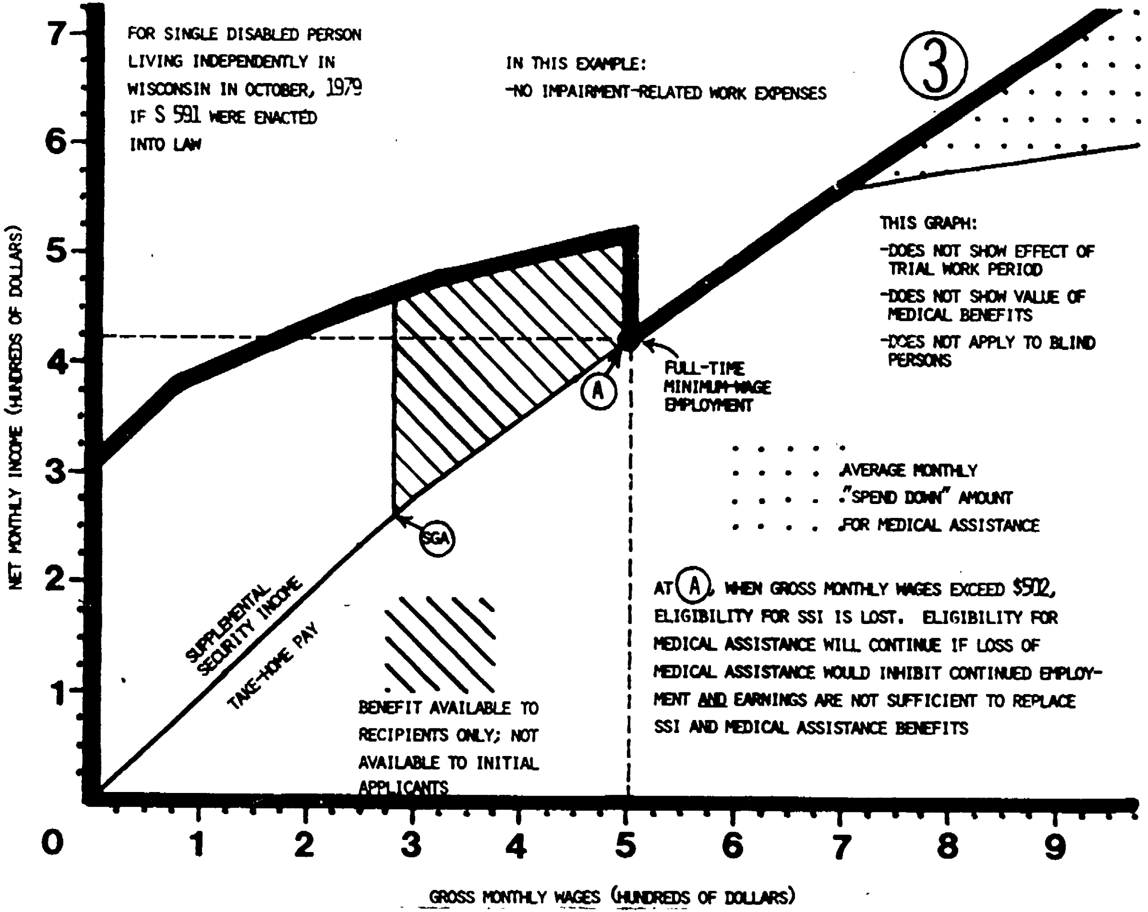


FOR SINGLE DISABLED PERSON LIVING INDEPENDENTLY IN WISCONSIN IN OCTOBER, 1979 IF HR 3464 WERE ENACTED INTO LAW

IN THIS EXAMPLE:
-NO IMPAIRMENT-RELATED WORK EXPENSES

THIS GRAPH:
-DOES NOT SHOW EFFECT OF TRIAL WORK PERIOD
-DOES NOT SHOW VALUE OF MEDICAL BENEFITS
-DOES NOT APPLY TO BLIND PERSONS

AT (A) WHEN GROSS MONTHLY WAGES EXCEED $481, ELIGIBILITY FOR SSI AND MEDICAL ASSISTANCE IS LOST.



FOR SINGLE DISABLED PERSON LIVING INDEPENDENTLY IN WISCONSIN IN OCTOBER, 1979 IF S 591 WERE ENACTED INTO LAW

IN THIS EXAMPLE:
-NO IMPAIRMENT-RELATED WORK EXPENSES

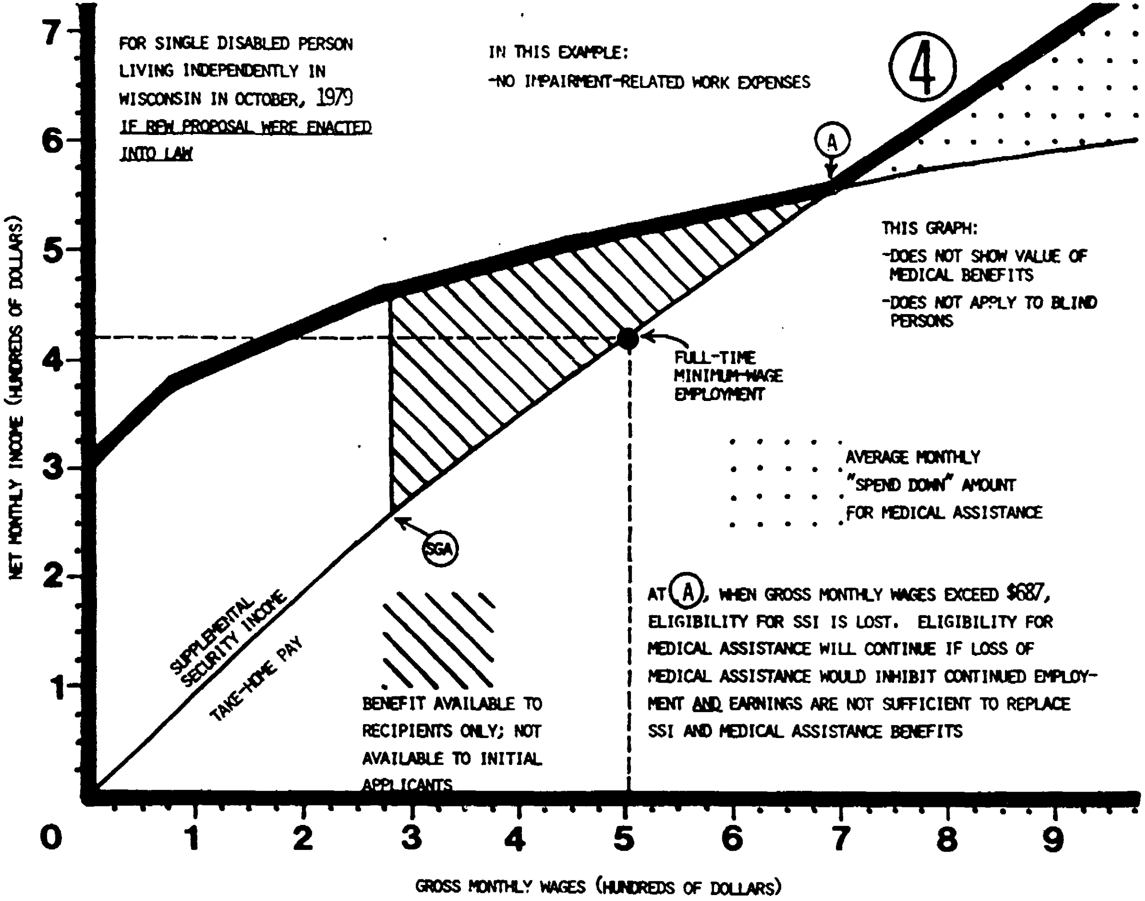
THIS GRAPH:
-DOES NOT SHOW EFFECT OF TRIAL WORK PERIOD
-DOES NOT SHOW VALUE OF MEDICAL BENEFITS
-DOES NOT APPLY TO BLIND PERSONS

FULL-TIME MINIMUM-WAGE EMPLOYMENT

AVERAGE MONTHLY "SPEND DOWN" AMOUNT FOR MEDICAL ASSISTANCE

BENEFIT AVAILABLE TO RECIPIENTS ONLY; NOT AVAILABLE TO INITIAL APPLICANTS

AT Ⓐ, WHEN GROSS MONTHLY WAGES EXCEED $502, ELIGIBILITY FOR SSI IS LOST. ELIGIBILITY FOR MEDICAL ASSISTANCE WILL CONTINUE IF LOSS OF MEDICAL ASSISTANCE WOULD INHIBIT CONTINUED EMPLOYMENT AND EARNINGS ARE NOT SUFFICIENT TO REPLACE SSI AND MEDICAL ASSISTANCE BENEFITS



FOR SINGLE DISABLED PERSON LIVING INDEPENDENTLY IN WISCONSIN IN OCTOBER, 1979 IF RFW PROPOSAL WERE ENACTED INTO LAW

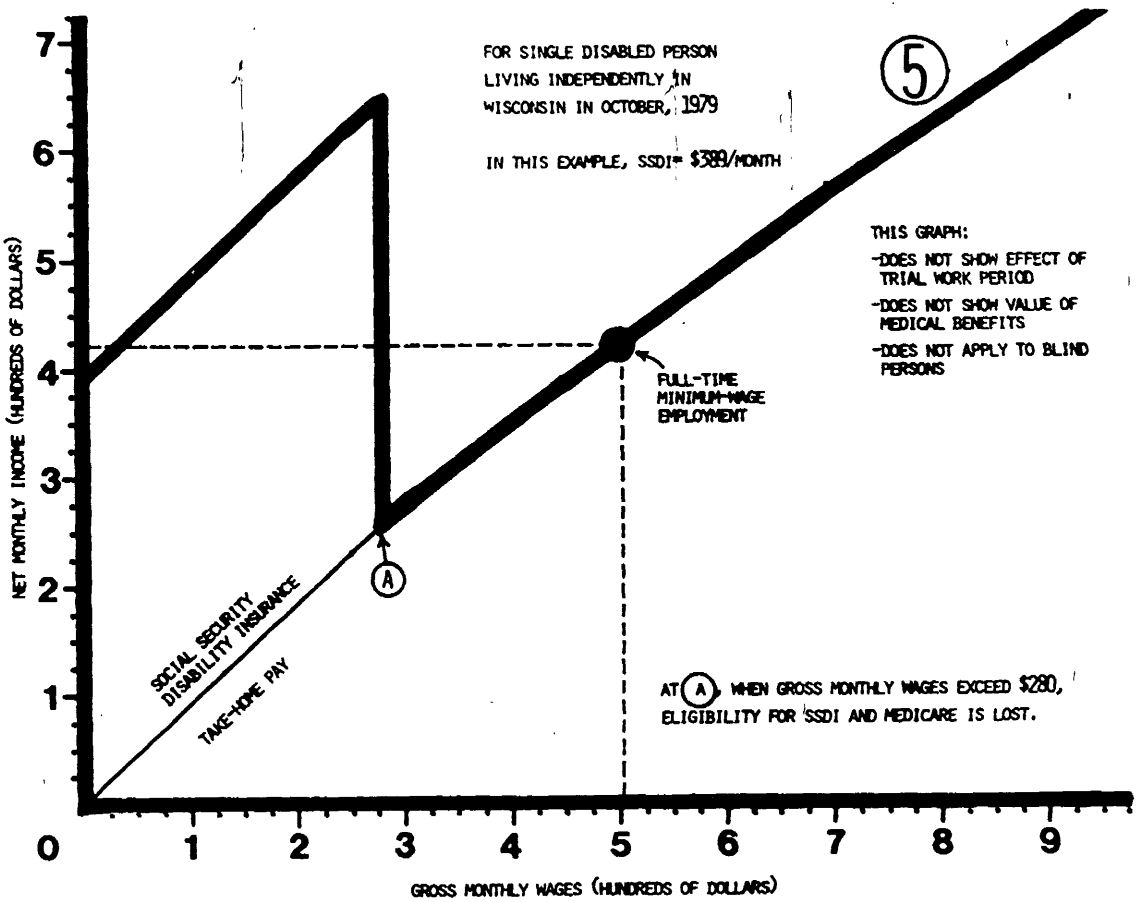
IN THIS EXAMPLE:
-NO IMPAIRMENT-RELATED WORK EXPENSES

THIS GRAPH:
-DOES NOT SHOW VALUE OF MEDICAL BENEFITS
-DOES NOT APPLY TO BLIND PERSONS

▨ BENEFIT AVAILABLE TO RECIPIENTS ONLY; NOT AVAILABLE TO INITIAL APPLICANTS

⁙ AVERAGE MONTHLY "SPEND DOWN" AMOUNT FOR MEDICAL ASSISTANCE

AT Ⓐ, WHEN GROSS MONTHLY WAGES EXCEED $687, ELIGIBILITY FOR SSI IS LOST. ELIGIBILITY FOR MEDICAL ASSISTANCE WILL CONTINUE IF LOSS OF MEDICAL ASSISTANCE WOULD INHIBIT CONTINUED EMPLOYMENT AND EARNINGS ARE NOT SUFFICIENT TO REPLACE SSI AND MEDICAL ASSISTANCE BENEFITS



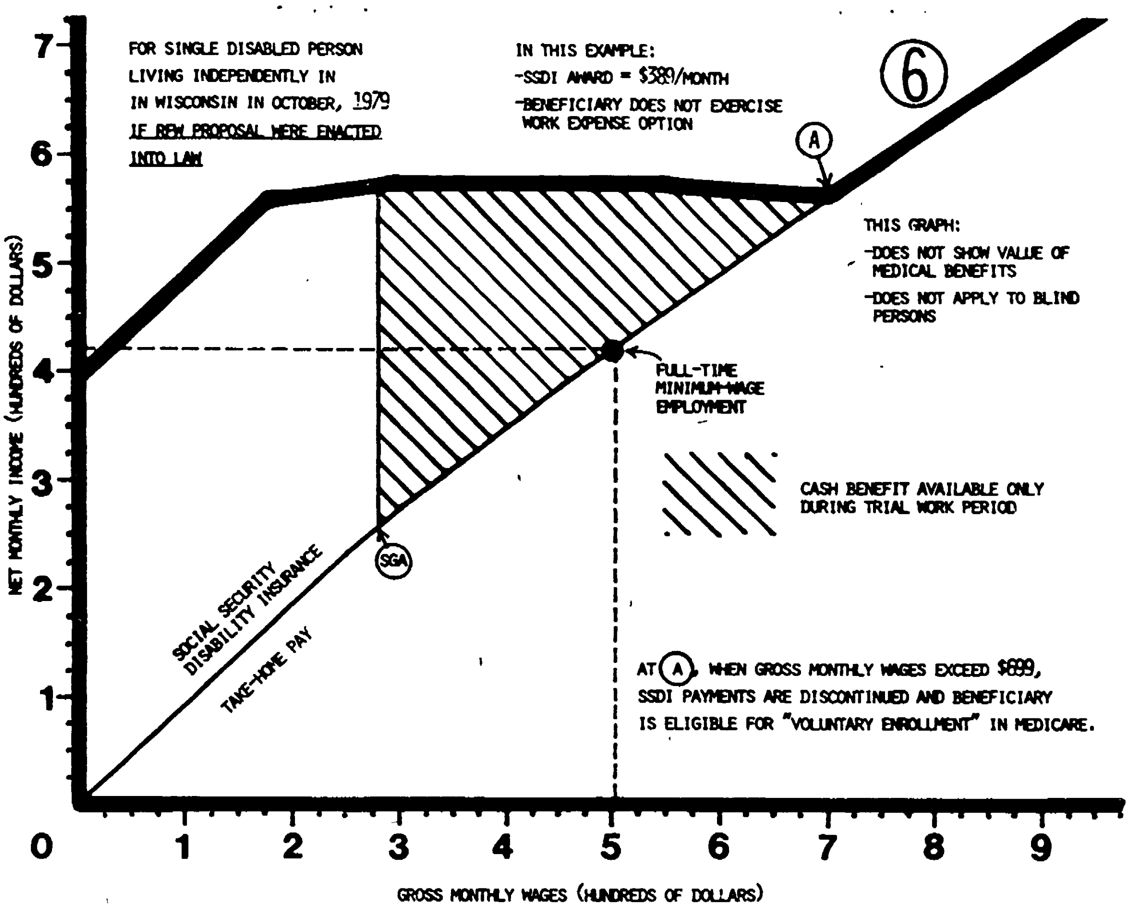
FOR SINGLE DISABLED PERSON
LIVING INDEPENDENTLY IN
WISCONSIN IN OCTOBER, 1979

IN THIS EXAMPLE, SSDI= $389/MONTH

THIS GRAPH:

- DOES NOT SHOW EFFECT OF TRIAL WORK PERIOD
- DOES NOT SHOW VALUE OF MEDICAL BENEFITS
- DOES NOT APPLY TO BLIND PERSONS

AT Ⓐ, WHEN GROSS MONTHLY WAGES EXCEED $280, ELIGIBILITY FOR SSDI AND MEDICARE IS LOST.



FOR SINGLE DISABLED PERSON
LIVING INDEPENDENTLY IN
IN WISCONSIN IN OCTOBER, 1979
IF HEW PROPOSAL WERE ENACTED
INTO LAW

IN THIS EXAMPLE:
-SSDI AWARD = $389/MONTH
-BENEFICIARY DOES NOT EXERCISE WORK EXPENSE OPTION

THIS GRAPH:
-DOES NOT SHOW VALUE OF MEDICAL BENEFITS
-DOES NOT APPLY TO BLIND PERSONS

AT Ⓐ, WHEN GROSS MONTHLY WAGES EXCEED $699, SSDI PAYMENTS ARE DISCONTINUED AND BENEFICIARY IS ELIGIBLE FOR "VOLUNTARY ENROLLMENT" IN MEDICARE.

COST ESTIMATE

The modification of the Trial Work Period for purposes of removing disincentives to employment can be accomplished without additional cost:

1. Approximately 3 percent of the current beneficiary population are earning more than $180.00 per month in gross wages. The average gross monthly earnings of this group is estimated to be no lower than $300.00. It is important to note that many of these individuals are participating in the current Trial Work Period. Under the sliding scale contained in this proposal, the benefits of each of these 87,750 individuals would be cut by an average of $90.00 per month. This should yield an annual savings of approximately $95 million which can be used to finance the remaining costs of the proposal.
2. Under this proposal, benefits would be extended to the 17,750 beneficiaries who currently leave the benefit rolls each year solely because of earnings in excess of the SGA earnings test. It is estimated that the average gross monthly earnings of this group is no lower than $500.00 (equivalent to full-time, minimum wage employment). Since the average monthly SSDI benefit is $425.00 (including expenditures for Medicare), the average beneficiary in this group would now be eligible for $185.00 in monthly benefits. The cost of this extension of benefits would be approximately $25 million by the end of the first year.
3. The disregard for impairment-related work expenses is estimated to cost approximately $5 million per year. This estimate is based on the assumption that 5 percent of the individuals whose earnings exceed $180.00 per month would be permitted to deduct an average of $100.00 per month for attendant care and other impairment-related expenses.
4. Increased administrative costs will be needed in order to implement the sliding scale. It is estimated that these costs would be approximately $2 million per year.

Fiscal year:	*Savings (millions)*
1980	$63
1981	38
1982	13

REHABILITATION FACILITIES OF WISCONSIN

(Case study, December 1978)

Larry Johnson is a 34 year old laborer who was hired on November 13 for a job as an Assembler in the electronics industry. This is the first time in over 5½ years that he has been able to find competitive employment. In 1973, Larry was disabled in an automobile accident. His spinal cord was bruised—an injury which still confines him to a wheelchair. At the time of this accident, Larry was employed as a Stockman by the Container Division of the Menasha Corporation in Neenah, Wisconsin. As a Stockman, he was responsible for stocking paper into a corrugating machine operated by eleven men. Larry says that as a Stockman, he was the No. 2 man on the team of eleven men.

Following his accident, Larry was hospitalized for over one year at Theda Clark Hospital in Neenah. In 1975, he was enrolled in the Fox Valley Sheltered Workshop in Appleton, Wisconsin where he was being considered for training in office machine repair until he was hospitalized a second time at Theda Clark Hospital. During this second hospitalization, he was transferred to the University of Wisconsin Hospitals Neurological and Rehabilitation Center in Madison, Wisconsin. In 1976, he was discharged to a new residence in Madison where he now resides with his ten year old daughter, Eloise. Larry and his wife were divorced after his automobile accident, but he won legal custody of his daughter.

In April, 1978, Larry entered the Sheltered Employment Program of the Madison Opportunity Center. The center was successful in locating employment for him assembling computer boards for Acme Electronics in Madison, Wisconsin. After one month on the job, his employer reports that he is learning his job rapidly, is getting along well with his fellow employees, and "we wish he could work full time". Larry works about 19 hours each week. Acme Electronics would also like to give Larry a raise in pay to $2.85 an hour instead of the $2.65 an hour they pay him now. However, if Larry were to accept Acme Electronic's offer of full time employment at $2.85 an hour, he and his daughter would experience a $484 decrease in their total net monthly income!

Larry has been a recipient of Social Security Disability Insurance (SSDI) since 1973. He and his daugher receive $705 each month in SSDI payments. Larry's monthly wages at Acme Electronics are currently $215. After Social Security taxes of 6.12% are deducted, he takes home about $202. Their total cash income each month, therefore, is $907. In addition, Larry is covered by Medicare.

If Larry were to work full time at $2.85 per hour, his gross monthly wages would be $490. After FICA, federal and state withholding taxes, his take home pay would be $423. However, Larry and his daughter would no longer be eligible for SSDI payments. The Social Security Administration (SSA) utilizes an earnings test as one of the many criteria required to establish eligibility for SSDI. If a SSDI recipient's earnings exceed $240 per month, the recipient is considered to be no longer disabled. In some cases, when earnings exceed $240, the recipient may be eligible for a trial work period of up to nine months. Unfortunately, Larry has already exhausted his trial work period. According to SSA regulations, any month in which a recipient earned $50 or more in a month which may be counted as one of the nine work trial months. During his employment at the Madison Opportunity Center and at the Fox Valley Sheltered Workshop, the number of months in which Larry earned more than $50 exceeded nine. His trial work period has vanished.

By accepting full time employment at $2.85 per hour, Larry's net monthly income would drop from $907 down to $423. At the same time, his eligibility for Medicare would also be lost. In order to maintain his current cash income alone, Larry would need to locate a full time job paying $7.15 an hour. Such a job would yield $1,230 in gross monthly wages, and $907 in take home pay. For a general laborer returning to the labor market after five years of convalescence, still confined to a wheelchair, $7.15 per hour is a wage which Larry may eventually be able to earn, if he doesn't encounter too many disincentives along the way.

REHABILITATION FACILITIES OF WISCONSIN GOODWILL INDUSTRIES OF MILWAUKEE

(Case Study, February 1979)

Millie Smith, age 51, won the Milwaukee Goodwill Worker of the Year Award in 1978. Disabled by a left arm amputation, the loss of right-hand fingers in an industrial accident, alcoholism (since she was a teenager), and depressive reactions to her physical deformities, Millie was noted for her progress in improving her productivity in sheltered employment, achieving a more appropriate social adjustment, maintaining sobreity from alcohol for the last three years, and establishing an independent living arrangement for herself in the community.

Millie's hourly wage at Goodwill Industries is $2.47. Goodwill is permitted, under state and federal sub-minimum wage licenses, to pay Millie less than the current federal minimum hourly wage of $2.90, but she must be paid according to her level of productivity. The vocational rehabilitation staff at Goodwill has assessed her level of productivity to be 86% of the level which could be expected of the average non-disabled worker. Millie is employed to sort textiles and clothing items donated to Goodwill by the citizens of Milwaukee.

Millie works 21¼ hours each week at Goodwill. She could be employed 31 hours each week, but she has to be a little bit careful about how much money she earns. Millie is a recipient of Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), Medicaid and Medicare. The Social Security Administration (SSA) utilized an "earnings test" as one of the many criteria Millie must meet in order to be eligible for the cash and medical benefits she receives. If a disabled recipient's gross earnings exceed $240 per month, the recipient is no longer considered to be disabled and all SSA benefits are discontinued.

In some cases, when earnings exceed $240 per month, the recipient may be eligible for benefits during a trial work period of up to nine months. Unfortunately, Millie has already exhausted her trial work period. According to SSA regulations, any month in which a recipient earned $50 or more is a month whch may be counted as one of the nine trial work months. During her employment at Goodwill Industries, the number of months in which Millie has earned more than $50 exceeds nine by a wide margin. Her trial work period has vanished.

The following chart illustrates the impact which alternative employment situations would have upon Millie's financial situation:

Type of employment	Monthly amounts				Medicare and medicaid
	SSDI	SSI	Net wage	Net income	
No job	$222	$73		$295	Yes.
Goodwill—					
21¼ hours per week	222		$210	432	Yes.
31 hours per week			$297	297	No.

Type of employment	Monthly amounts				Medicare and medicaid
	SSDI	SSI	Net wage	Net income	
Competitive employment, full time—					
$2 90 per hour			421	421	Do.
$4 per hour			553	553	Do.

The vocational rehabilitation staff assigned to Millie's case at Goodwill has indicated that, financial considerations aside, Millie's most appropriate job alternative would be to work the regular Goodwill work schedule of 31 hours a week. First of all, they say, it is undesirable for Millie to work less than 31 hours a week because the full work schedule is a better test of Millie's work stamina in preparation for eventual competitive employment. Also, too much leisure time is something of a risk to recovering alcoholics: it increases the probability of losing sobreity. It is important for Millie's continued improvement that she maintain a full schedule of daily activities and social contacts.

Secondly, the rehabilitation staff is not prepared to recommend competitive employment for Millie at this time. She still requires a supportive emotional environment which is unlikely to be available in the average competitive employment setting. Unsure of herself and her abilities, subject to periods of depression and loneliness, and self-conscious about her physical appearance, Millie frequently calls upon the Goodwill staff for supportive counseling. Having never married, she has little family life to sustain her outside of a workplace. The possible severity of these emotional difficulties is reflected in the fact that she once attempted to take her own life a few years ago. Millie does not yet possess the level of personal adjustment required to successfully establish herself in competitive employment.

If this assessment of Millie's vocational capacity is correct, the most appropriate employment alternative for her rehabilitation also turns out to be the most disasterous one for her financially. If she works 31 hours a week at Goodwill, her net monthly cash income will drop from $432 down to $297 and she will lose Medicare and Medicaid. Millie's medical benefits are important because she has high blood pressure which requires medications and periodic office visits. Medicaid would also cover psycho-therapy which she has required in the past and may require again in the future. A premium for private health insurance would reduce her disposable income even further. Financially, a work week of 31 hours would be worse than no job at all.

(Case Study, February 1979)

Under Chapter 359 of the Wisconsin State Statutes, four Wisconsin sheltered workshops were each awarded $30,000 grants in 1979 to develop prime manufacturing projects which would employ at least five handicapped workers full-time, at the federal minimum hourly wage. The purpose of these projects is to develop long-term jobs for disabled individuals in extended sheltered employment programs.

Goodwill Industries of Milwaukee was one of the sheltered workshops selected for this pilot program. Goodwill has subsequently developed a woodworking project constructing hobby horses for small children. Handicapped workers are employed in this project, at the current minimum wage rate, to cut, assemble, and paint the wood components of the finished product.

Joe Smith, age 36, is a developmentally disabled individual who has been employed at Goodwill since November, 1974. He has been earning approximately $145 per month in Goodwill's subcontract department on sub-assembly bench-work tasks. Joe is paid wages on a piece-rate basis. He is scheduled to work 31 hours each week.

In December, 1978, Joe was offered a full-time, minimum-wage job in Goodwill's woodworking department, to work on the Chapter 359 hobby horse project, because of his excellent performance in the subcontract department. Because Joe is confined to a wheelcair by spina bifida, the woodworking department was planning to make modifications in their woodworking equipment to enable Joe to perform his required tasks. Also, because Joe lacks experience in woodworking, the department was planning to provide all of the training necessary to enable him to do the job.

Unfortunately, Joe was unable to accept this offer to improve his vocational potential. Joe is a recipient of Supplemental Security Income (SSI) and Medicaid. The Social Security Administration (SSA) utilized an "earnings test" as one of the many criteria Joe must meet in order to be eligible for the cash and medical benefits he receives. If a disabled recipient's gross earnings exceed $240 per month, the recipient is no longer considered to be disabled and all SSA benefits are discontinued, including SSI and Medicaid.

In some cases, when earnings exceed $240 per month, the recipient may be eligible for benefits during a Trial Work Period of up to nine months. Unfortunately, Joe has already exhausted his Trial Work Period. According to SSA regulations, any month in which a recipient earned $50 or more is a month which may be counted as one of the nine trial work months. During his four years of employment at Goodwill, the number of months in which Joe has earned more than $50 exceeds nine by a wide margin. His Trial Work Period has vanished.

If Joe had accepted the job in the Chapter 359 project, his increased wages would have replaced his need for SSI cash payments. Joe's Medicaid benefits, however, would be exceedingly difficult to replace with take-home pay. The woodworking project is unable to provide health insurance as a fringe benefit. Joe's medical needs are substantial:

1. Because of his confinement to a wheelchair, Joe has had recurring difficulties with urinary tract infections. He has been hospitalized three times during the last year because of this problem. As of this date, he is still having difficulties with these infections. If shots are going to become a required, routine treatment, he will have to leave the group home where he now resides, and re-enter a nursing home. Medicaid would cover his expenses in a nursing home as well as medical tests and treatment for this problem.
2. Joe has an appointment to see an ophthalmologist in the near future. He may soon require eyeglasses because his ability to read is being impaired.
3. Joe can expect to have some expenses in connection with the maintenance and eventual replacement of his wheelchair.
4. Joe requires the services of a podiatrist to deal with three inch infections on his feet.
5. Joe has had two operations for gall stones in the recent past. He may have to undergo additional operations for gall stones in the future.
6. Joe requires prescribed medications to treat persistent problems with diarrhea.
7. Joe also has a scalp condition which requires a prescribed medication for treatment.

As a developmentally disabled person in a state-licensed group home with less than nine residents, Joe is entitled to a basic monthly SSI allowance of $360. This allowance is reduced by $30 due to his average monthly earnings of $145, leaving a monthly SSI cash payment of $330. His net monthly income, therefore, is approximately $475, plus Medicaid. As a group home resident, Joe is asked to contribute some of his income to the group home to help defray the costs of his care.

If Joe were to accept full-time, minimum-wage employment, his take home pay would be $421. His SSI payments and his Medicaid eligibility would be discontinued. His net monthly cash income, therefore, would drop from $475 down to $421. In addition, the loss of Medicaid coverage would be most undersirable in view of his anticipated medical expenses.

Joe is still working in the subcontract department instead of the Chapter 359 project. One of the purposes of Chapter 359 is to improve wages for handicapped workers in sheltered employment programs. In Joe's case, this purpose has been effectively thwarted by disincentives to employment arising in Social Security programs for the disabled.

(Case Study, March 1979)

John Smith, age 43, is a developmentally disabled individual who lives in a skilled nursing home and works at Goodwill Industries. His average monthly earnings at Goodwill are approximately $135. John is employed in Goodwill's Subcontract Department on subassembly, bench-work tasks. He works about thirty hours each week and receives wages on a piece-rate basis.

The vocational rehabilitation staff at Goodwill is interested in helping John locate full-time competitive employment with an employer in Milwaukee. While his work speed is slower than normal, John displays other attributes which would make him a productive employee. The quality of his work is excellent, he is dependable, he is able to relate to his supervisors and co-workers in a cooperative and friendly manner, and requires very little supervisory attention once he has learned the tasks required of him. Entry-level work on a sub-assembly job paying a wage of about $3.25 an hour is seen by the Goodwill staff as a feasible vocational objective, despite his handicap and lack of previous employment experience. John's vocational rehabilitation counselor believes that John could be placed directly into competitive employment without any additional skill training at this time.

At this time, however, it would be unwise for John to seek competitive employment. John is a recipient of Social Security Disability Insurance (SSDI), Medicare, and Medicaid. The Social Security Administration (SSA) utilizes an "earnings test" as one of the many criteria John must meet in order to be eligible for the cash and medical benefits he receives. If a disabled recipient's gross earnings exceed $240 per month, the recipient is no longer considered to be disabled and all SSA benefits are discontinued, including SSDI, Medicare, and Medicaid.

In some cases, when earnings exceed $240 per month, the recipient may be eligible for benefits during a Trial Work Period of up to nine months. Unfortunately, John has already exhausted this Trial Work Period. According to SSA regulations, any month in which a recipient earned $50 or more is a month which may be counted as one of the nine trial work months. During his three years of employment at Goodwill, the number of months in which John has earned more than $50 exceeds nine by a wide margin. His Trial Work Period has vanished.

If John were to accept full-time employment at an hourly wage of $3.25, his gross monthly wages would be approximately $560. After deductions for FICA and state and federal withholding taxes, his take-home pay would be approximately $460. This amount would easily replace his monthly SSDI checks of $121 and his monthly wages at Goodwill. His Medicaid benefit, however, would be difficult to replace with wages.

John was placed in Northern Center, a large state institution for the mentally retarded, in 1940 when he was five years old. In addition to mental retardation, John is also disabled by a curvature of the spine, spastic parapelgia, a marked difference in the length of his legs, a hearing loss, and a speech problem. John's IQ score of 69, is probably partially due to cultural and social deprivation arising from his thirty-year confinement in an institution and his hearing loss. In 1970, John was discharged from Northern Center to a skilled nursing home in Milwaukee. He started working at Goodwill Industries in 1975.

While John may eventually be able to leave the nursing home to live in a group home, he will still require Medicaid coverage of his expenses in the nursing home for the immediate future. This is a major medical expense which most probably would not be covered by group health insurance provided by a community employer. Additional medical expenses arise for John for a wheelchair, special orthopedic shoes, a hearing aid, and speech therapy. These additional expenses are also covered by Medicaid. John is also absent from work for short periods of time, usually two or three times each year, because of medical problems requiring treatment. The most recent example of such absenteeism was the result of a problem with a boil on one of his legs.

If John were to obtain full-time competitive employment, he would be able to contribute more toward the cost of his medical needs than he contributes now. At the present time, John contributes approximately $120 each month toward the cost of his care in the nursing home. Under the same formula used to set his present contribution of $120, he would contribute approximately $235 if his gross monthly wages increased to $560. This would allow him to shoulder a larger share of his medical expenses as his earnings increase. The "Catch 22", however, is the termination of his Medicare and Medicaid when his earnings exceed $240 per month. When earnings exceed $240 per month, John is suddenly required to carry the entire burden of his medical expenses. Because this financial burden is too great for him to handle on his own, he will remain in sheltered employment and forego any opportunities for competitive employment.

[From the Wisconsin State Journal, Mar. 21, 1976]

REDTAPE SHACKLES ARTHRITIS VICTIM

(By Robert Pfefferkorn)

Arthritis keeps LeRoy Freidel from running full clip in the daily rate race, but he's convinced he could walk faster if he wasn't shackled by bureaucratic red tape.

Freidel is the first to credit the welfare system with giving him a chance to get off the sidelines.

Still, his voice becomes angry and bitter when he tries to describe the federal restrictions that, from his point of view, have harnessed him into a plodding life of dependency and fear.

"I need you. I need the system, and I'm grateful," he says, adding, "But they've never let me really try to live on my own."

Freidel is nearly 41. He's had rheumatoid arthritis since he was 3. He receives monthly checks from Social Security, the Supplemental Security Income (SSI) program and the insurance company where he works part-time.

His hospital bills for five operations since 1972 came to nearly $15,000 and were paid by the government. Medical assistance also covers other medical, drugs, dental and visiting nurse expenses.

But Congress has set limits on how much people like Freidel can earn and still qualify for SSI and medical assistance. The two programs are linked.

Practically uninsurable. Freidel's greatest fear is losing medical benefits. There is no guarantee he won't need more surgery to replace other joints frozen by arthritis.

In addition to the operations implanting stainless steel and plastic joints in both ankles, both hips and one elbow, Freidel has been treated for stomach, intestinal and skin ailments.

"I want to work," he said, clearing a file of medical bills from his desk. "I don't want to rot in my house. You sit in your house and watch the idiot box all day, and you go nuts."

He continued, "Let me see what I can do on my own. Don't put so damned many restrictions on us so we can't possibly try it for fear of losing too much.

"This is what's wrong with the system," he said. "How many more are there out there who are saying: 'I can't take the risk because there's too much to lose'?"

A native of Sun Prairie, Freidel was honored as Handicapped Jaycee of the Year in 1970. He is treasurer of the Dane County Welfare Rights Alliance, but he doesn't consider the group radical.

"They're just fighting the idea that people on welfare are somehow subhuman, lower-class citizens. They're just trying to go through a political system—even if that system drives them up the wall," he said.

"Nobody wants to be on welfare," he continued. "Why should you be looked down on because you're on welfare? There's always that giant curtain in front of you—that welfare is a big ripoff."

Freidel receives $206.50 from Social Security plus about $30 from SSI. The SSI program was taken over by the federal government in 1974 to provide monthly assistance to persons with little or no income and limited resources and who also are 65 or over, blind or disabled.

Freidel also receives $100 a month plus "liberal fringe benefits" from his employer, Tom Donahue of Farmers Insurance Group, 302 E. Washington Ave. He works as an administrative assistant.

"Maybe some people will call that a rip-off, but that $100 allows me to live somewhat comfortably," he said. He pays $125 a month for his apartment at 413 N. Sherman Ave.

He has no car, spends little on entertainment or other vices, but he said he managed to save 2½ years for a color television. He's qualified for food stamps, he said, but the 39-page application form and taxicab fare to pick them up make them hardly worthwhile.

There are other restrictions, rules and programs. Sometimes, Freidel concedes, he is reluctant to be entirely candid or to inquire about a new program for fear of losing the security of his present assistance.

For one thing, he has ruled out marriage. As he understands the regulations, he said, "If I met a woman—and unless she was handicapped just like I am—I'd lose my benefits. That'd make me a tremendous burden. I just wouldn't do that to anyone. I just wouldn't do it."

Generally, SSI administrators say a person can earn about $200 without losing SSI benefits. Freidel understands that in his situation he stands to lose SSI benefits, and medical assistance that goes with it, if he earns more than the $100 a month.

After his first publicly paid operation when he was 21, Freidel spend seven years at the Dane County Home at Verona. He figures the cost to taxpayers then was about $500 a month and that may have increased to $800 by now.

Freidel argues that, by trying to work, he's saving tax money, and that, if he were allowed to earn more, he might gradually assume even more of his medical expenses.

"Next month I will have been on welfare for 20 years, and that's nothing to be proud of," he said.

While he's sure he'll never be completely self-supporting, completely independent, he's equally sure he could work more, earn more, pay more of his bills himself.

"In one way, I am 100 percent disabled," Freidel said. "In another sense—because of guts or boredom or craziness or whatever you want to call it—I'm not disabled."

"I want to work. If I'm able to do it, let me."

(Case Study, March 1979)

Mary Jones, age 25, was a recipient of Social Security Disability Insurance, Supplemental Security Income, Medicare and Medicaid until December, 1978. She lost her eligibility for all of these disability-related benefits because she got a job. As a result of these changes, however, her personal financial situation has become very confusing. This case study will attempt to describe these financial difficulties.

Mary is disabled by a personality disorder and by a seizure disorder. Her personality disorder is characterized by a high level of anxiety and tendency to make herself dependent upon other people. Her seizure disorder has been characterized by grand mal seizures, now controlled fairly well by medication, and by "blackouts" which probably cannot be considered true seizures. Her "blackouts" however, are probably beyond her control. Mary has also had a recent history of mild hallucinations. Both her personality disorder and her seizure disorder have caused periods of hospitalization during the last ten years.

Mary has a long history as a marginal worker. She has been in and out of at least three different sheltered workshops in Wisconsin during the last seven years. She received several months of training in food service from a vocational school. She had a brief employment experience in 1975 working in a canning factory. These vocational activities have been interrupted by hospitalizations, moves to different towns, and the birth of a baby girl in 1976.

Mary's living arrangements have also been marginal and unstable. She has bounced in and out of half-way houses to live with various relatives scattered in different towns in southeastern Wisconsin. A recent attempt to live independently in the community ended in failure because she persisted in calling the local rescue squad too frequently for minor medical complaints.

In January, 1977, Mary moved to Fort Atkinson, Wisconsin, to live in Taylor Hall, a small group home, and to work at Opportunities, Inc., a local sheltered workshop. The State Division of Vocational Rehabilitation was providing services to Mary designed to help her locate stable competitive employment. Mary continued her employment at Opportunities, Inc., until September, 1977, when she entered competitive employment at the J. F. Luther Junior High School as a food service worker in the school cafeteria. Mary's new job was made available to her under a CETA program operated by the local Job Service office.

At J. F. Luther Junior High School, Mary started out at the minimum hourly wage of $2.65. She was scheduled to work thirty hours each week. While this rate of pay and this work schedule would ordinarily be expected to yield monthly gross earnings of about $345, Mary's actual gross monthly earnings never reached this amount because of school vacations, teacher in-service days, her own occasional absenteeism, and other occasions in which the school dismissed her from work earlier than usual. During the 1977-78 school year, her average gross monthly earnings were $252. Also, because the school is closed during the months of July and August, she had no earned income during those months. Consequently, her average gross monthly earnings from September 1, 1977 to September 1, 1978, were $210.

Shortly after she started work at the school, her expected earnings of $345 per month were reported to the Social Security Administration.

Mary had been a recipient of Social Security Disability Insurance, Supplemental Security Income, Medicare, and Medicaid since 1974. When her eligibility for these benefits was first established in 1974, the Social Security Administration (SSA) indicated that they intended to review her eligibility again in January, 1975, for the purpose of determining whether or not she was still disabled. Mary was considered to be an individual who might achieve a medical recovery from her disability.

In January, 1975, her medical file was sitting in Baltimore, at the national headquarters of the SSA, where such documents are usually stored. However, because of an inadequate computer program at that time, her file was not flagged for review. No medical review was conducted, nor was a date set for a future review. Because of this oversight, it is conceivable that Mary could have received her disability benefits for the rest of her life with no questions asked, provided that her earned income never exceeded the Substantial Gainful Activity earnings test (currently $240 per month). If a disabled recipient's gross monthly earnings exceed the Substantial Gainful Activity earnings test amount, that recipient is no longer considered to be disabled and all SSA benefits, including SSDI, SSI, Medicare and Medicaid, are discontinued, regardless of what a medical review might reveal.

When her expected monthly earnings of $345 were reported to the SSA in September, 1977, no action was taken to terminate her SSA benefits. Her SSI payments were adjusted downward to reflect her increased earnings, but she retained apparent eligibility for all of her benefits. Because the social service and rehabilitation personnel assisting Mary were not familiar with SSA regulations, they had no reason to doubt that Mary was still eligible for SSA benefits, especially since the SSA was still sending her monthly payments. In July, 1978, her SSI and SSDI checks were increased to reflect a cost-of-living adjustment. On that same SSA notice of change, her expected monthly wages of $348.83 were mentioned in their explanation to Mary of how her SSI payment amount had been calculated.

In October, 1978, more than one year since her new job had first been reported, the SSA notified Mary that her November SSI and SSDI checks were to be her last. Effective December, all of her disability benefits were discontinued. She was further informed that her eligibility for benefits had actually lapsed twelve months earlier.

In some cases, when earnings exceed $240 per month, the recipient may be eligible for benefits during a Trial Work Period of up to nine months. Unfortunately, mary had already exhausted her Trial Work Period. According to SSA regulations, any month in which a recipient earns more than $50 is a month which may be counted as one of the nine trial work months. During her sheltered employment at Opportunities, Inc., and other sheltered workshops, the number of months in which she had earned more than $50 exceeded nine. Her Trial Work period had vanished sometime before September, 1977. Technically, Mary owes the SSA approximately $1,800 for cash payments she was not eligible for from December, 1977 through November, 1978.

Meanwhile, back at the J. F. Luther Junior HIgh School, Mary's hours were reduced when she started working again in September, 1978. Because the CETA program terminated its involvement in her employment situation, the school decided that it could not afford to schedule her for more than fifteen hours per week. They did, however, give her a raise to $3.14 per hour. Her expected monthly earnings are now about $205. This amount, however, will be further reduced, again, by school vacation days and occasional, normal absenteeism.

Does her new level of expected earnings make her eligible once again for SSA benefits? No. Because her monthly earnings exceeded $240 several times during the 1977-78 school year, the SSA conducted a medical review. This time, the medical review indicated that she is no longer disabled, based primarily upon the results of a twenty minute office visit with a local psychiatrist, and the fact that she has demonstrated an ability to earn more than $240 a month since September, 1977.

Left with less than $200 per month in income, Mary must now cover her own medical expenses. While she is covered to some extent by her employer's group health insurance plan, there are medical expenses which that plan is not covering. For example, medications, Dilantin and Pathabate, at a monthly cost of $17.60, are not covered. Since her SSA benefits were terminated, she has run up medical bills totaling about $200. Mary will probably have to turn to the local general relief program in order to deal with these medical expenses.

Taylor Hall, the group home where Mary resides, costs approximately $600 per resident per month to operate. The Jefferson County Human Services Department provides funding for the group home. However, that funding is based on the assumption that all of the group home residents are SSI recipients. The residents, on this basis, are asked to contribute most of their monthly SSI checks toward the cost of their care, while Human Services picks up the remaining costs. In Mary's case, she is no longer able to make this standard contribution toward the cost of her care in the group home, leaving the group home and the Human Services Department with the choice of either locating additional funding for her residency in the group home or else asking her to leave the home before she is actually ready to attempt a more independent living arrangement.

A possible strategy for dealing with Mary's situation is to help her locate full-time employment which would yield a more workable monthly income. While this solution is always the most sensible in the long run, Mary's employment prospects are presently very marginal. Her level of work adjustment is seen as very fragile. A transition to another job contains the risk that she will not be able to adjust rapidly enough to insure a favorable outcome. Her present employment situation affords her with a level of psychological security and job satisfaction which should not be disrupted at this time if she is to make continued progress toward full vocational rehabilitation.

If Mary had not allowed her monthly earnings to exceed $240 per month during the 1977-78 school year, she would probably have a net monthly income of about $400, plus Medicaid and Medicare coverage, at this time. Anxiety-provoking confusion over personal finances would have been avoided, thus enabling Mary to concentrate more appropriately on her personal and vocational adjustment.

THE QUESTIONABLE CURE FOR THE CRISIS THAT DOESN'T EXIST

THE CASE AGAINST PROPOSED LIMITS ON SOCIAL SECURITY DISABILITY BENEFITS

(By Merton C. Bernstein and Walter D. Coles)

I. THE DI COST CRISIS HAS PASSED

A. *Applications down*

"The growth rate of the number of beneficiaries on the [DI] rolls is the lowest since the beginning of the program," Secretary Califano informed the Committee on Ways and Means on February 22, 1979.

In 1974 and 1975 the unexpectedly rapid increase in Disability Insurance rolls and costs foreshadowed the impending bankruptcy of the Social Security Disability Insurance Fund. After a relatively slow start, in the late 1950's benefit awards zoomed upward from 208,000 in 1960 to 536,000 in 1974 and 592,000 in 1975. But 1976 and 1977 showed significant slackening in the annual rate. And the 1978 monthly figures indicate that the tide is ebbing: New DI awards—September 1977—43,957 and September 1978—37,499. (Social Security Bulletin, January 1979, Table M-17, page 64). Awards to dependents declined commensurately.

It seems thoroughly inappropriate to make the disabled pay for the assumptions of economists and other social scientists whose mathematics and motives were pure but whose projections, experience shows, are proving incorrect. The proper reaction is a sigh of relief rather than to persist in a course probably no longer necessary.

B. *Decoupling has already reduced benefit costs*

Mistakes that Congress and SSA made in providing for the indexing of benefits constitute a major reason for greater than expected benefit costs. Congress rectified that error last year by its decoupling amendments, which should reduce projected benefits outlays, possibly as much as 25 percent.

These two substantial developments mean that the anticipated crisis has passed. It would compound past mistakes to change benefits to solve a problem whose causes no longer exist.

At the very least, it would be prudent to wait and see what will develop before proceeding to drastic action based upon assumptions that are not panning out.

II. THE DISABLED REALLY ARE DISABLED

A. *Rigorous eligibility criteria*

Congress wrote tough disability eligibility requirements in 1956, when it first added such benefits to the Social Security system. And in 1967 Congress rewrote the eligibility criteria to tighten them. So, today, to qualify for benefits an applicant:

1. Must have a medically determinable condition that leaves him without the capacity for substantial gainful employment;
2. That capacity need not be for his regular work and need be only for kinds of work that exist in substantial numbers in the economy, even if no job openings exist and even if the applicant would not be hired;
3. The applicant must wait 5 months before becoming eligible for benefits.

(The difficulty of applying the criteria do not mean that many people get benefits despite dubious eligibility. Indeed, my study persuades me that large numbers of people who should quality do not.)

While these features of the law seem terribly basic, many people do not realize how exacting these requirements are. So, the 5 month waiting period usually means 5 months without income. This results from the fact that unemployment compensation is payable only to employees able to work. And very few DI beneficiaries qualify for workers compensation benefits. (The offset data indicate an overlap of only about 2-3 percent between workers' compensation and the DI rolls.)

Other means-tested programs require a degree of impoverishment that most working people do not reach immediately upon disablement. So, it would take many applicants quite some time to exhaust modest bank accounts, insurance and losing one's home if it had a value over the small amounts allowable under most assistance programs. Thus, although SSI has the same disability requirements as Disability Insurance (but without the waiting period), it would take some substantial period of income loss before all the newly disabled qualify for that program. In addition, after application, a prompt SSI disability determination takes two to three months; many take more. So, the 5 month waiting period constitutes a great hurdle and great privation for many DI applicants.

Most applicants who achieve benefit eligibility do so because they fit categories of disease and impairment that clearly render them incapable of activities necessary to do any significant work. Nonetheless a fairly substantial number of applicants, who constitute a distinct minority of beneficiaries but most of the rejected applicants, fall into a group with some residual capacity for physical activity. So for them the question becomes whether they have "capacity for substantial gainful employment".

The test is largely a theoretical one.

The actual language is instructive:

> 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 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. (Social Security Act, sec. 223(a)(2)(A).)

So the applicant must be unable to do any kind of substantial gainful work regardless of: whether such work exists where he lives, whether there is a specific job vacancy for him, or whether he would be hired if he applied.

B. *Rigorous HEW implementation*

From the outset of the disability benefits program, HEW has been tough in administering it. Not long after the program began, the Harrison Subcommittee held hearings to probe the hard-nosed administration of DI by the Social Security Administration. The federal district courts have reversed hundreds of denials of benefits. SSA responded with proposals for legislation to tighten eligibility criteria; that resulted in the addition of the phrases just quoted and underlined.

Despite the unevenness of state administration, HEW administration has been tough. One example won't suffice, but it may illustrate the tenor of administration.

In *Leftwich* v. *Gardner*, 377 F.2d 287 (4th Cir. 1967) a 52 year old manual laborer with severe back problems was denied benefits by SSA because he was employed, making $150 a month as a dishwasher. The applicant had a wife and nine children and worked despite intense pain. Moreover, the job had been specially arranged for him at a sanitorium by a local politician; the management made special allowances for his condition. Despite these circumstances, SSA denied benefits to him and his family.

The point is not whether SSA was correct or incorrect (the decision was reversed by the federal district court). The point is that SSA has operated the program without undue generosity. Some would say—I among them—with no generosity at all.

The regulation, in sec. 404.1503(b), makes it apparently ironclad that:

> "If an individual is engaging [in] substantial gainful activity, a determination shall be made that the individual is not under a disability without consideration of either medical or vocational factors."

That this quoted preclusion is hardnosed, indeed, can be shown by another illustration from my experience. When sitting as arbitrator, I had a case in which a 300 pound 32 year old truck driver was discharged as disabled by hypertension. Without prescribed medication, he might die. Use of the medication, however, made it dangerous for him to drive. His weight made it impossible to walk. But, to support his family, he drove a rented truck as a private garbage hauler. Although the work was killing him and he was in danger to himself and the public due to disease, the regulation would bar even considering him for disability insurance benefits.

I agree with most commentators that the regulations will make DI administration even more rigorous than it has been in the past. Overly liberal definitions or administration do not seem a problem requiring the kind of crack down proposed. Indeed, as George Meany observed in regard to the 1967 amendments, the definition and application of disability criteria should be liberalized if the program is to keep faithful to its promise.

III. THE QUESTIONABLE JOB POTENTIAL OF MOST DISABLED BENEFICIARIES IN PERIODS OF HIGH UNEMPLOYMENT

A. *Characteristics of the disabled*

SSA studies show that typically the disabled are: elderly persons who performed unskilled or low skilled labor demanding physical effort which yielded low pay; for the most part they have had little education. And most suffer from degenerative, not traumatic, conditions. These characteristics mean that the overwhelming bulk of beneficiaries (and, indeed, many of the applicants denied benefits) have little potential for retraining for jobs that exist in the economy.

It is utterly inhumane to refuse to recognize that in an economy with chronically high unemployment, the chances of DI beneficiaries securing paid work are very slight. Millions of able bodied job seekers have no success. When Humphrey-Hawkins was under consideration, Congress—once again—declined to adopt full employment as a goal to be achieved soon.

Under such circumstances, it is pious and cruel nonsense to seek to flog all DI beneficiaries into being job seekers when very few, practically none, could look forward to actual jobs.

B. *What "rehabilitation" means—usually neither a job nor substantial earned income*

Since the inception of the Disability Insurance program, Congress has rightly emphasized rehabilitation efforts. Considerations of humanity and efficiency warrant providing help to disabled people to regain as much ability to function as possible. That should mean recovery of social as well as economic capability. The emphasis, however, has been upon restoring earning capacity.

The best rehabilitator is a full employment economy. That provides employers eager to use people's capabilities to the maximum. Real job opportunities provide incentives to impaired individuals to redevelop their capacities. And such a condition gives training facilities more realistic targets for which to offer training.

At the opening of Secretary Califano's February 22 testimony before Ways & Means he referred to the rehabilitation program and "the rate at which beneficiaries recovered and returned to work" (p. 3 of prepared text). In the body of his statement, (p. 11), that changed to "medical recovery or return to work". The first misleadingly suggests that removal from the DI rolls for "recovery" also means a job. It does not mean any such thing for the great majority of the recovered. The second version, with or, is more accurate, but still obscures the realities.

Realism requires recognizing that the severely disabled (the group which qualifies for DI or comes close to doing so) will be among the last to be hired. This results not only from their physical devastation, but also from their age and low skill levels and training as well. Rehabilitation can make a difference in these capacities, but in an economy with a surplus of able-bodied would-be workers, both fairness and realism warn against expecting very much.

Rehabilitation does not mean getting a job nor achieving substantial earnings. As administered, it means either going through the requisite training or regaining the mythic capacity already described.

A study of 6,194 disabled-worker beneficiaries "rehabilitated" in fiscal year 1969 showed 44.2 percent with no earnings for 1970 "after rehabilitation". The table shows that just about two-thirds (62.1 percent, including the 44.2 percent with no earnings) achieved earnings under $2,000 (or under $1 an hour for a full employment year of 2,040 hours).

Happily about one-fifth (21.4 percent) earned over $5,000.

TABLE 57.—DISABLED-WORKER BENEFICIARIES REHABILITATED (WITH TRUST FUNDS) IN FISCAL 1969: RECOVERY AND OTHER BENEFIT TERMINATION EXPERIENCE AS OF DECEMBER 1970, BY 1970 EARNINGS AFTER REHABILITATION

Earnings after rehabilitation [1]	Total	Percent distribution				
		Recovery terminations [2]		Age 65	Death	Continuing disability
		Termination continuing	Return to disability			
Number	6,194	2,532	238	70	155	3,199
Earnings in calendar 1969:						
Total percent	100.0	100.0	100.0	100.0	100.0	100.0
No earnings	44.2	9.3	70.2	68.6	98.7	66.7
$1 to $49	1.8	.9	5.0	4.3	0	2.3
$50 to $999	8.9	6.1	16.8	14.3	0	10.9
$1,000 to $1,999	7.2	7.5	5.0	7.1	0	7.5
$2,000 to $2,999	5.4	8.5	2.5	2.9	0	3.4
$3,000 to $3,999	5.0	10.0	0	1.4	0	1.8
$4,000 to $4,999	6.0	12.4	0	1.4	.6	1.8

TABLE 57.—DISABLED-WORKER BENEFICIARIES REHABILITATED (WITH TRUST FUNDS) IN FISCAL 1969: RECOVERY AND OTHER BENEFIT TERMINATION EXPERIENCE AS OF DECEMBER 1970, BY 1970 EARNINGS AFTER REHABILITATION—Continued

Earnings after rehabilitation [1]	Total	Percent distribution				Continuing disability
		Recovery terminations [2]		Age 65	Death	
		Termination continuing	Return to disability			
$5,000 to $5,999	5.0	10.3	0	0	.6	1.5
$6,000 to $6,999	5.1	10.4	0	0	0	1.6
$7,000 to $7,799	3.4	7.3	0	0	0	.9
$7,800 or more	7.9	17.4	.4	0	0	1.5

[1] Earnings based on earnings taxable under social security, which are subject to maximum limits. No covered earnings since 1950 reported for 1 percent of the rehabilitants, some may have had noncovered earnings, others may have been incorrectly identified by account number.

[2] Recovery refers to OASDI benefit termination for medical improvement or return to sustained employment.

"Committee Staff Report, Committee on Ways and Means, on the Disability Insurance Program" p. 290 (Committee Print, July 1974).

A similar analysis in the same report, concerning a somewhat longer period (1967-72) and larger group 28,058, showed essentially the same patterns: in 1972 about one fifth (22.4 percent achieved earnings of $5,000 a year or more while 44.9 percent earned nothing; 10.2 percent earned $1 to $999; and another 12.4 percent earned between $1,000 and $2,999. (The 1972 figures were somewhat better than those for 1971, which were somewhat better than those for 1970—but much of the dollar amount creep simply reflects inflation.) It is also pertinent that those with the highest pre-disability earnings had larger rates of separation from benefits, possibly due to higher skill levels.

One should not minimize the achievements of that minority—a small minority—who did obtain substantial earnings to observe that most of the "rehabilitated" did not.

And it is instructive that, despite the small earnings of the great majority of the "rehabilitated," most did not go back on the benefit rolls, presumably because they had earning "capacity." Only, 2,111 (7.5 percent) did go back on benefits. (40.9 percent were not removed from benefit status to begin with.)

The small rehabiliation program naturally concentrated on the individuals with the greatest potential for restoration of earning capacity. So, greater efforts (not accompanied by more ambitious training and a general economic recovery) could be expected to yield smaller proportions of return to substantial earnings.

C. *Low job potential in a high unemployment society*

This brief commentary does not denigrate rehabilitation. It simply points out that the DI population, very damaged people, has but slight potential for return to substantial gainful employment in the economic climate characteristic of the last decade. These data also warn that attempts to goad the disabled into employment by reducing benefits has slight potential for gainful employment and great potential for human suffering.

IV. THE ISSUE OF EXCESSIVE BENEFITS

A. *Alleged abuse entirely theoretical*

The proponents of a cap offer no actual proof of abuse due to high benefits. After all the years of concerned probing of this program, proof would be presented if it existed.

The 1978 Committee Print (95-39) on the Burke bill in the preceding Congress, which set the pattern for the Administration and other like proposals, developed entirely theoretical high benefits with illustrations of "almost $1,000 a month" (p. 8). This it was asserted, without a shred of evidence presented, "include[s] malingering" (quoting the Committee's actuarial consultant).

As Abraham Lincoln sought to find out before Congress committed the folly of going to war with Mexico

where?
when?
by whom?

The answer comes: the case is hypothetical and "an extreme case" at that! Yet it includes a finding of motive.

Embracing the entirely theortical analysis of economists, Secretary Califano advocates a cap of 80 percent of "average" earnings prior to disability. This "average" should not be confused with earnings just prior to disablement. Rather it is the "earnings on which the benefit are based" (to quote the Secretary); that is, the average of all credited earnings, which, in the case of many, includes the quite low earnings and lower creditable earnings of remote periods. So, the 80 percent "cap" in reality means that often families subject to the limit would receive in benefits less than 80 percent of the income earned by the disabled person just prior to disablement. The older the worker, the more likely that will happen.

The Secretary's argument for the 80 percent cap runs this way:

"Benefits *often* (his word, my emphasis) equal or exceed pre-disability earnings" [he omits "average" at that point]

This is a "disincentive."

Therefore, put a cap on benefits. (All of this appears on page 3 of his testimony.)

But on page 8, the presentation shifts:

His words: "Under current law, a *small* proportion of beneficiaries receive benefits so high in relation to their predisability earnings, that the benefits, *in effect,* serve as an incentive not to go back to work." (my emphasis) And he goes on: "Approximately 16 percent of beneficiaries receive benefits that are more than 80 percent of their average [here it is] pre-disability-earnings." That overstates his own 1978 testimony to the same subcommittee; there (page 1 of Committee Print WMCP-95-84) he indicated he was using "last year's awards." As specialists in this field know, recent awards are higher than earlier awards because affected by more recent, inflation-affected earnings."

So, the real figure for 80 percent plus recipients is below 16 percent for all beneficiaries.

And, he points out, the higher benefits occur because of the addition of dependents' benefits, principally for spouses and children.

B. *The inapplicability of private insurance experience*

1. *Inaccurate Comparison.*—Nor is the Secretary accurate when he states that the 80 percent cap "will still leave benefits well above those of private insurers." (p. 9). He's comparing grapes and grapefruits. The two-thirds limits found in private insurance apply to total earnings; the 80 percent limit counts against only credited earnings, which were very low until recently. Moreover, private disability benefits are found only in high pay jobs.

2. *Differing purposes—private plans designed to facilitate removal of active workers.*—A frequent purpose of private plans is to facilitate the removal of active workers when they do not perform up to the desires of management. In some plans—as also with public programs for Police and Fire Pension Programs—the program is designed to enable insiders to retire at relatively young ages with favorable tax treatment. And private plan definitions of disability frequently enable retirement if the individual no longer can do his assigned job, rather than any job. Any number of such plans give management the option to require the retirement and when it, rather than the employee, makes the choice the benefits are higher. (So, for example, only last week I was consulted (without fee) on the operation of a plan which paid double the benefits for management-decided early retirement—not quite the same thing as under discussion here, but indicative of motivation of some managements for providing high benefit rates.)

So, the argument that experience under private disability plans shows high levels of retirements does not apply to the DI program. Many such private plans provide the high benefits purposely to enable easy separation. The purpose, definition, and administrative approach of private plans frequently—I would say, usually—differ from those in DI.

C. *The new Lourdes—low benefits*

Many times in the past hysterics have promised quick cures for the lame, the halt and the blind. The economists new Lourdes is low benefits. So, they foretell, slug-a-bed arthritics and hibernating hypertensives will arise and go back to work—lured, the new Ladies of Fatima prophesy, by the fact that they can no longer receive lush benefits as DI beneficiaries.

In fact, DI benefits already are low (even before decoupling). The most recent new benefit awards reported averaged $327.66 a month disabled workers. (In September 1978, reported in January 1979 Social Security Bulletin page 1.) Published data do not readily show the average family benefits in payment status. However, the family maxima tend to be less than twice the primary benefit—so—a $600 average family benefit below $600 a month might be a reasonable guess. $150 a week for a family of five hardly will lure many—if any—from live jobs if they could get and keep them.

V. INCOME NEEDS OF THE DISABLED

A. *Cash income—before and after disablement*

Practically all disabled people need more cash income after they are disabled than before. The reason simply is that the able bodied do many things for themselves that disablement often prevents. Many such activities are the equivalent of income. Many are essential to day-to-day existence. To the extent that other family members assume those functions, their ability to work, to learn, and tend their own affairs is reduced. Meanwhile, the savings resulting from not working are negligible. Let's take up those points in reverse order.

In estimating the needs of disabled people, it is common to note that not going to work results in savings—on transportation, clothing, and food. Well, the disabled must eat at home. Most people who qualify for DI formerly performed blue or gray collar work, most of whom take their lunch boxes or brown bags (or whose employers provide food). So, savings on food would be infrequent and not certain for all disabled. While white collar workers might save on clothing by not going to work, blue and gray collar workers do not. Transportation costs would be saved. However, to the extent that the disability prevents driving (as many conditions or their treatment do), many disabled must use more expensive forms of transportation, such as taxi cabs. In blue and gray collar families, both spouses work more often than not; and if the non-disabled spouse didn't before, she or he will do so after the partner's disablement if she/he can be spared. So transportation services by other family members cannot be readily assumed.

Most of us turn our thermostats down when all family members are at work and at school. A disabled person staying at home inevitably has higher heating, cooling, lighting, and cooking bills than before.

Take one example recently reported on the front page of the St. Louis Post Dispatch (February 18, 1979). The headline gives the essence: "Families Choice: Heat, Food or Rent Money"

It tells the story of an elderly couple. The woman, who formerly brought home some income from working as a cleaner in a commercial building, attempted to maintain herself and her husband, who had been disabled for 25 years by work-connected injuries and Parkinson's Disease. He constantly wets himself in the bed and repeatedly falls down. She no longer can go to work because he needs constant attendance. Their income: about $400 a month. Their heating bill: $82.69 in one winter month. (I deduce from the story that they receive a minimum Social Security check plus SSI. But it could just as readily be DI.)

One does not need to be Keynes or Samuelson to know of the skyrocketing cost of heating. (This family tried to economize by installing a trash burner and huddling around it during the night.) Yet, Congress let lapse the federal program to help the needy pay for heating bills. And the proposed budget recommends $40 million for the entire nation for next fiscal year—which is one-fifth of what that program provided two years ago when heating costs were much lower. And most of that smaller amount would go for weatherproofing rather than fuel bills.

In sum, lower benefit cannot be reasonably predicated on savings attributable to not working.

Taxes on pay would be saved. At the lowest tax bracket paying 14 percent, after deductions and standard exemptions, this savings cannot be more than—or even as much as—10 percent.

B. *Increased health care costs—unavailability of medicare*

Moreover, medical expenses usually increase for the disabled. Private work-based health insurance disappears with one's former job. And Medicare does not become available to DI beneficiaries during the first two years of disability—a terrible hardship.

C. *Loss of pre-disability noncash income*

Many able bodied people engage in non-employment activities that produce goods and services to themselves and their families—what economists call "imputed income." So, for example, many people do their own repair work. Rather than paying plumbers, electricians, painters, or mechanics, they fix and maintain their homes and cars. They plant gardens and grow some of their own food; they tend fruit trees and mow their own lawns.

One study at the University of Michigan placed the average value of such activities at $3,500 a year per family (in 1964 prices)—or the equivalent of about half of average family cash income. (The two figures would have to be increased substantially to translate into 1979 dollars.) These activities included housework. Anyone who has coped in the absence of his/her spouse, knows that housework takes enormous effort and time. Where one substitutes for the former activities of another family member, the activities subtracts from income production, other tasks producing imputed income, study, and, not unimportantly, leisure. Indeed, studies show that disablement places enormous strains upon family relationships, often leading to family break up, which is hardest on the disabled person. (In one seminar, my students came upon several examples. One woman had been rendered a paraplegic in a one car accident; her husband drove the car. After she spent several months in an iron-lung; he divorced her. She subsisted—alone—in an institution, kept alive by SSI. Had she worked, it would have been DI.)

One out of three DI beneficiaries also receives SSI (whose qualifying criteria and benefits are not themselves terribly generous). That provides some measure of the adequacy of DI benefits. In all, the blind and other disabled receiving SSI benefits numbered about 2.2 million persons (in September 1978). They about equaled the number of destitute aged (over 65) receiving SSI.

These are seriously disabled people. Work (of any substantial amount) is not a real alternative for them, at least not under existing economic conditions.

They should not be the first group sacrificed to the demand for economy. Indeed, they should be among the last.

Millions of the able bodied will join their ranks. (Peter Milius of the Washington Post recently reported an estimate that one-third of the population will draw DI benefits sometime during their life time. I cannot vouch for the estimate, given to him, however by someone with expertise. The figure seems high to me.) If and when our time comes, all of us would hope for a better deal than currently available. None of us would opt for the proposals recommended by Secretary Califano.

That should be instructive.

VI. SECRETARY'S CALIFANO'S MISTAKES

Frankly, I don't think that Secretary Califano knows what he's talking about in regard to this program. He's too compassionate a person to knowingly advocate a program that's so unfair and cruel to the weakest members of society.

It's not hard to guess what happened. The pressure has been on to lower Social Security payroll taxes. Meanwhile, specialists remain stimulated by the "crisis" in DI costs; although the crisis is ebbing, that wasn't so apparent when they launched their efforts to trim costs. The staff people did what they were told: they came up with plausible, if forced, arguments to justify cuts. They have been egged on by a few economists still manipulating graphs based upon economic man (whose elasticity is questionable in the best situations; the disabled are a lot less elastic than the rest of us. The rest of us are not so fantastically elastic, either; a stroke would put most of us out of business.) Anyhow, the Secretary, a busy executive, does not have the expertise in this difficult field to see the thin places in the data and logic. So, like the hyperactive, overachieving enthusiast that he is, he heartily recommends a program that is as questionable as it is heartless. I just hope that, as a thoroughly moral man, he will take the time and show the intellectual and ethical courage to reverse himself.

Wouldn't that be refreshing?

VII. SUMMARY OF ARGUMENTS AGAINST BENEFITS CAP

Trimming Disability Insurance rolls and costs are not as urgent as formerly appeared because applications and awards have dropped to the lowest rates in two decades and the 1978 Social Security decoupling has already reduced projected benefits and program costs.

Those awarded benefits as disabled are disabled. The statute, regulations, and SSA Administration are rigorous.

The work potential of DI benefits is negligible, especially in current high unemployment conditions. The Secretary's emphasis on rehabilitation is at odds with program history. It is not realistic to expect rehabilitation to return substantial numbers of DI beneficiaries to substantial earnings—most of those "rehabilitated" achieve no earnings or only slight earnings—but many, nonetheless, lose benefits.

The abuse alleged is entirely theoretical. Proceeding on the assumption that some benefits are high (very few are), it goes on to assume that some beneficiaries prefer benefits to work, as if many had a choice. The allegation of malingering is completely unsubstantiated.

In fact, the disabled do need more money after disablement than before. Many of the things they formerly did for themselves, some of which generated substantial imputed income, they no longer can do. Meanwhile, their living costs go up—more for home energy costs, more for medical care.

The Califano proposals would be wrong if there were a crisis in DI costs. In the absence of such a crisis, they are doubly wrong.

STATEMENT SUBMITTED BY JAMES A. COX, JR., EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF REHABILITATION FACILITIES

Mr. Chairman, my name is Allen Cox. I am Executive Director of the National Association of Rehabilitation Facilities (NARF). NARF has about 1,000 members who provide comprehensive rehabilitation services to over 3,000 disabled individuals annually. Many of these are Social Security Disability Insurance beneficiaries and Supplemental Security Income disability beneficiaries. We support H.R. 3464, the Supplemental Security Income Disability Amendments of 1979 which will improve considerably the lot of SSI beneficiaries. However, we feel that H.R. 3236, the Disability Insurance Amendments of 1979 does not sufficiently broaden the opportunities for disabled citizens to return to gainful employment. These issues are of great importance to handicapped citizens and they deserve our full consideration. The majority of my remarks are addressed to H.R. 3236.

The SSDI program provides benefits and rehabilitation services to individuals determined to be disabled and therefore unable to work.

Theoretically it contains incentives to people to seek employment; however, these aspects of the program actually act as disincentives to employment. The Beneficiaries Rehabilitation Program, a main feature in returning the disabled to competitive employment has managed to achieve a margin of success against these obstacles. We support incentives to help beneficiaries to become self-sufficient, but through a system that does so by terminating benefits. We support those provisions of H.R. 3236 which eliminate several disincentives in the program. They are eliminating the Medicare waiting periods subsequent to the inital 24 months; extending the trial work period to 24 months and excluding from substantial gainful activity earnings offset by extraordinary work expenses, including attendant care. However, we feel the bill can be improved. We offer for your consideration the following comments:

A. *Family benefit ceiling, section 2*

Section 2 of the bill proposes to place a ceiling on the total disability insurance family benefits at an amount equal to the smaller of 80 percent of worker's average indexed monthly earning or 150 percent of the worker's primary benefit. In including this section, the House Committee felt that such a limitation would strengthen work incentives for disabled beneficiaries. We believe it will have an opposite effect. People unable to work will be even less willing to take the risk of losing benefits if they fail. Furthermore, those who are disabled and cannot work should not be penalized for their disability. NARF therefore joins the other organizations who have opposed this section.

B. *Cost of rehabilitation services from trust funds, section 13*

Section 13 of H.R. 3236 would make significant changes in the authorization of funds for rehabilitation services for disabled individuals under Section 202 and 203 of the Social Security Act. The expressed intent of these changes is to integrate the beneficiaries rehabilitation program into the ongoing program of vocational rehabilitation carried out by state vocational rehabilitation agencies under the authority of the Rehabilitation Act of 1973 as amended. We support this objective, but believe the drastic changes made by this bill will be counter productive. The bill is premised on the assumption that the Vocational Rehabilitation program will be expanded to make up the sharp reduction in funding of V.R. services, which will occur if this bill is passed. The Ways and Means Committee estimates that expenditures from the SSDI Trust Fund will drop by close to 75 percent. The idea of integrating the SSDI rehabilitation program into the ongoing V.R. effort is sound, but this should not be left to chance. H.R. 3236 does not make this explicit connection although it was amended on the House floor to push back the effective date of these provisions until fiscal year 1982. This action was designed to provide time to legislate increases in the V.R. program. We believe this conversion should be made now and in one bill. Accordingly, we recommend that to the extent that the SSDI beneficiary rehabilitation program is reduced, the authorizations for core service funds in the Rehabilitation Act should be increased. Absent such action we recommend that this Section of the bill be deleted.

Expenditures for beneficiaries rehabilitation programs have been essentially static for the last several years. This reflects a 1976 GAO report which found the benefits of the program to exceed its cost, but by lesser margins than previously represented. Freezing the budget under such circumstances is false economy both in terms of Federal dollars and human lives. The effect has been to reduce the availability of rehabilitation services to persons drawing social security payments by reason of disability, thus reducing the possibility of their returning to substantial gainful employment. This freeze on expenditures has had this negative effect without any positive return since it was not accompanied by any reform or improvements in administration or management to enhance the results of the program.

If Section 13 is retained we suggest modifications. Section 13, H.R. 3236 would provide for reimbursement of a vocational rehabilitation program including a bonus payment to the state for successful rehabilitation which is defined as substantial gainful activity which lasts for a continuous period of 12 months, or 12 months employment in a sheltered workshop. This result-oriented reimbursement system is certainly tied to the basic justification of trust fund expenditures for rehabilitation services. It has, however, some ramifications which should be examined and which may require changes in the bill as follows:

(1) It is not clear that the payments authorized for reimbursement to the general fund in the U.S. Treasury and to states are in addition to authorized and appropriated amendents under Title I of the Rehabilitation Act. This should be clear from the face of the legislation, otherwise the effect of this bill could be to reduce rehabilitation services for both social security beneficiaries and other vocational rehabilitation clients.

(2) Further, it is not clear how much money is to be available. The bill would authorize "such sums as may be necessary." However, the Secretary is directed to determine "the total amount to be reimbursed for the cost of services under this subsection." It is, again, not clear whether this later provision is intended to place limits on rates of reimbursement for services, or as a cap on the entire program. If it is the latter, we believe that the legislative history should indicate that the maximum funding capable of yielding a positive cost benefit ratio be made available.

(3) We are concerned that the result-oriented thrust for reimbursement, while conceptually valid, may have the effect of excluding severely handicapped individuals from rehabilitation services. The recent amendments to the Rehabilitation Act have established a Congressional priority for services to severely handicapped individuals. A provision in this legislation which conditions reimbursement on successful cases is likely to cause vocational rehabilitation agencies to shy away from difficult cases where the prospects for successful rehabilitation are good, but by no means certain. This could be remedied by providing the states a bonus in successful cases and simple cost reimbursement in those which do not come to successful closure. An alternative might be to allow a state a specific maximum "failure" rate.

We support the idea of a study of alternative means for providing rehabilitation services to disabled beneficiaries. This entire program has not received the attention it deserves and a reappraisal, oriented to producing maximum effectiveness, is warranted.

C. *Additional recommendations*

(1) Trial Work Period: SGA Test

Any calendar month in which a disabled recipient earns less than the substantial gainful activity earnings test amount should not be counted as a month of trial work.

Under existing Social Security Administration regulations, any calendar month in which a disabled recipient earns more than $50 in gross wages may be counted as one month of the nine-month trial work period. This regulation makes it possible for disabled employees of sheltered workshops to exhaust all or part of their trial work period before they are ready to attempt independent, community employment. The Social Security Administration is considering increasing the trial work period earnings level from $50 per month to $75 per month. Even with this minor adjustment the test will continue to deprive many sheltered workshop employees of a meaningful trial work period. The creation of a 24-month trial work period as proposed in H.R. 3236 will not help sheltered workshop employees who have earned more than $75 per month during the two-year period of sheltered workshop employment. We are unaware of any justification for the $50 earnings level for a trial work period month. Because this regulation performs a substantial disservice to disabled workers, we recommend that it be removed.

(2) Amend SGA Earnings Levels and Definition

H.R. 3464 proposes an increase in the SGA earning levels; establishes a definition of countable earnings and sets forth certain disregards in determining countable earnings for purposes of SGA. These disregards include the first $65 of monthly earnings; impairment related work expenses for certain severely disabled individuals and 50 percent of remaining monthly earnings. H.R. 3464 also establishes the following disregards in calculating the monthly SSI payments:

The first $65 of monthly earnings, which is current law;

Standard work related expense disregard equal to 20 percent of gross earnings;

Impairment related work expenses incurred by certain severely disabled individuals;

50 percent of any remaining monthly earnings which is current law.

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 disincentives for the disabled by more closely aligning the test for disability under SSI with the program's Federal income test. We recommend the same amendment be adopted for determining SGA under the SSDI program.

(3) Demonstration Authority

The demonstration authority which would be created by Section 4 of H.R. 3236 should be expanded to cover Title XIX of the Social Security Act and be examined to assure that it does not conflict with Section 5, Research and Demonstration Projects of H.R. 3464.

I would like to direct your attention to a statement made by Congressman Bill Archer during the 2nd session of the 95th Congress when H.R. 12972 was reported out of the House Committee on Ways and Means. H.R. 12972 addressed work incentive issues in the Supplemental Security Income program. In his statement, Congressman Archer suggested that the work problems of disabled SSI recipients and the work incentive problems of SSDI beneficiaries need to be considered and dealt with together, rather than separately. He pointed out that more than a third of those receiving SSI disability payments also receive Social Security benefits. He concluded his statement by saying: "Perfect answers to related problems in these overlapping programs may not be found, but better answers certainly can be obtained through a cooperative effort by the two subcommittees involved."

If this is true of legislation, it also applies to demonstration projects. In Wisconsin, for example, there are an estimated 10,000 working-age persons who are receiving both SSI and SSDI benefits. Over 8,000 of these individuals are receiving benefits from all of four Social Security programs; SSI, SSDI, Medicare and Medicaid. Demonstration authority which fails to recognize the overlapping nature of these programs is less likely to produce meaningful results.

(4) Reduce Income Tax and Benefit Reduction Rates.

If a disabled beneficiary has not medically recovered, the combination of income tax rates and benefit reduction rates applied on earnings in excess of the substantial gainful activity earnings test amount should not be allowed to exceed 100 percent.

One of our members has reported the following example about "Larry Johnson." Larry is confined to a wheelchair as a result of a spinal cord injury. His doctor told him that the possibility of a medical recovery is extremely slight and that he should plan on being confined to a wheelchair for the rest of his life. Larry turned down an offer of full-time minimum wage employment in order to avoid a $484 reduction in his net monthly income and to avoid the loss of Medicare coverage. He and his daughter are SSDI beneficiaries.

To Larry, any time the government takes away from you because of an increase in your earnings, you have just been taxed. If Larry had accepted the job offer, his earnings would have exceeded the SGA earnings test by $260. On that amount, he would have paid 6.13 percent to FICA, 4.4 percent to the State of Wisconsin, 13 percent to the IRS, and 271 percent to the Social Security Administration in the form of discontinued disability benefits. The combined "tax rate" on earnings in excess of the SGA earnings test would have totaled out to 29.5 percent. On top of this, he would have lost Medicare coverage.

Suppose, instead, that this combined "tax rate" had been limited to 100 percent. After he paid his FICA and income taxes, the Social Security Administration would have reduced his disability benefits by about $200 per month. In this case, Larry would have accepted the job offered to him since he is eager to increase his vocational activities. This Social Security Administration, in turn, would have saved about $2,400 per year on his disability claim.

(5) Retention of Medicare/Medicaid Eligibility

If a disabled beneficiary has not medically recovered at the time that his or her earnings exceed the SGA earnings test, and that beneficiary would otherwise be forced to accept substandard health insurance coverage or would not be able to replace Medicare/Medicaid coverage or existing prescribed medical treatments, he or she should be allowed to retain eligibility for Medicare under SSDI and Medicaid under SSI under a cost-sharing arrangement. The cost-sharing arrangement should be consistent with Recommendation No. 4.

A two-year extension of Medicare/Medicaid benefits after a beneficiary leaves the benefit rolls would be very helpful to individuals who can expect to reduce their medical expenses and obtain standard health insurance coverage by the end of the two-year period. Private sector insurance may not successfully replace portions of Medicaid coverage. Many other disabled recipients are probably in a similar situation.

The Medicare/Medicaid programs should be modified to assist those who wish to return to the labor force with a disabling condition if that disabling condition lasts longer than two years.

AMERICAN COUNCIL OF THE BLIND, STATEMENT BEFORE THE COMMITTEE ON FINANCE OF THE U.S. SENATE

On H.R. 3464, H.R. 3236 and other proposals related to the Social Security Disability and Supplemental Security Income Disability programs October 5, 1979.

SUMMARY

The American Council of the Blind, a national membership organization of blind persons, and the Affiliated Leadership League of and for the Blind of America, a coalition of national, state and local organizations of blind persons and nonprofit agencies serving blind persons take the following positions:

1. We ardently oppose any favorable action on H.R. 3236, Disability Insurance Amendments of 1979.
2. We support the provisions of H.R. 3464, S. 591 and similar proposals.
3. We support the following additional amendments to Title XVI.

(a) The amending of Section 1612(b)(4)(A)(i) of the Social Security Act to provide for the same amount of exempt earnings for blind SSI beneficiaries as are now allowed for blind disability beneficiaries under Section 223 of the Social Security Act;

(b) The extending of the SSI program to Puerto Rico, Guam and the Virgin Islands on the same basis as in the states.

I. ACB and all oppose H.R. 3236

The American Council of the Blind and the Affiliated Leadership League ardently oppose H.R. 3236 as passed by the House of Representatives.

We approve of some of the amendments contained in H.R. 3236, particularly Section 5 which allows the exclusion of extraordinary work expenses due to severe disability and Section 6 which extends the trial work period as well as extending entitlement to disability insurance and related benefits. These amendments to Title II are similar in nature to those proposed by H.R. 3464 to Title XVI and they are positive steps toward removing some of the serious work disincentives for disabled beneficiaries.

However, Sections 2 and 3 of H.R. 3236 are so detrimental that they far outweigh any benefits contained in the rest of the bill.

Section 2 places a "cap" on the family benefit level and Section 3 reduces the number of "dropout" years for disabled beneficiaries under the age of 47. The effect of these provisions would be to reduce cash benefits for individuals and families who would qualify after January 1, 1980. Clearly, both of these provisions would work the greatest hardship on younger disabled persons. While this negative effect would apply to all disabilities, the impact upon the blind is particularly startling. According to Social Security Administration statistics, one-third of the total 2.8 million disabled beneficiaries are under the age of 50. Yet, within this total, among the 115,940 blind beneficiaries, 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.

Further SSA statistics indicate that the hardship will also fall more heavily upon minority groups in many instances. For example, of all blind beneficiaries in South Carolina, 44.8 percent are black. In Louisiana, 43.3 percent of all blind recipients are black. And in the state of Texas it is reported that the percentage of black beneficiaries is a disproportionately high 21.4 percent. It is not likely that these percentages will change as prospective beneficiaries are added to the rolls.

Another group hit especially hard by these amendments is the Viet Nam era veterans who are also in this younger age bracket. The stated rationale for cutting disability benefits is that such action will somehow prove to be an incentive for getting disabled persons to work. This reasoning becomes a cruel fallacy when one recognizes that the impact will be most severe upon minorities, Viet Nam era veterans and other groups whose difficulty securing employment, even without a severe disability, is well known.

The assumption underlying the rationale discussed above is even more cruel and we share in the sentiment expressed by the Honorable Claude Pepper during the House of Representatives debate on H.R. 3236 on September 6, 1979.

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 are 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 (at page H 7409).

The Senate Committee on Labor and Human Resources held hearings last June on a proposal to amend Title VII of the Civil Rights Act of 1964 to include handicapped persons. One witness after another testified about the severe employment discrimination faced by disabled Americans who are qualified and willing to work. How can one justify a rationale of cutting benefits to force people back to work, when unemployment continues to be such a serious problem nationally and when those jobs which are available are all too frequently not "open" when the applicant is disabled?

II. ACB and all support H.R. 3464

The American Council of the Blind and the Affiliated Leadership League support H.R. 3464 and similar proposals such as S. 591.

We commend the proposed amendments to Title XVI which address the serious problem of the work disincentives presently built into the law for disabled persons receiving SSI. The House Committee Report to accompany H.R. 3464 (H. Rep. No. 96-104) concisely states the problem:

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 (at page 24).

Both H.R. 3464 and S. 591 address this problem and we support such equitable provisions.

We note that for disabled people the continuance of medical benefits is particularly important. While the proposals before this Committee would help to ease the burden of the situation as it now exists, we point out that only the enactment of a truly comprehensive national health insurance program will fully meet the needs of disabled persons and all other Americans. We look forward to working with this Committee and others in achieving that urgent goal.

III. Additional suggested amendments to the SSI program

In addition to the provisions included in H.R. 3464, S. 591 and other proposals, we urge consideration of the following amendments to Title XVI.

We favor increasing the amount of exempt or disregarded earnings of blind SSI beneficiaries under Title XVI. We all know that the present exemption of $780 per year is a serious disincentive for such beneficiaries to engage in such part-time and usually low-paying work as they can obtain. We were encouraged by the provisions of are not subject to the substantial gainful activity rule. In explaining Section 335 of Public Law 95-216 which amended Section 223 of the Social Security Act with respect to exempt earnings of blind beneficiaries under Title II.

Many blind persons receive benefits concurrently under both titles which means that the Title II amendment is no practical improvement for them unless the exemption under Title XVI is changed accordingly. Blind SSI beneficiaries are not subject to the substantial gainful activity rule. In explaining Section 335 of Public Law 95-216, Senator Long said (Congressional Record, Dec. 15, 1977, S. 19500):

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

In any event, since the number of blind SSI beneficiaries is relatively small, and since it appears that a comparatively small fraction of such present beneficiaries are working, the economic effect of the proposed exemption would not be great.

We propose an amendment to replace Section 1612(b)(4)(A)(i): All earned income not excluded by the preceding paragraphs of this subsection, that does not exceed the exempt amount under Section 203(b)(8) which is applicable to individuals described in subparagraph (D) thereof, plus one-half of the remainder thereof.

In the last Congress the House passed H.R. 7200 which would have extended SSI coverage to aged, blind and disabled persons in Puerto Rico, Guam and the Virgin Islands on a pro-rated basis. We urge that this Congress extend the benefits of Title XVI on the same basis as for the several states.

Under the present law, the following were the average monthly payments in December 1976: Puerto Rico—$19.04 for the aged, $13.59 for the blind, and $14.37 for the disabled; Virgin Islands—$55.94 for the aged, $56.28 for the blind, and $55.94 for the disabled. In Puerto Rico, for example, in January 1976 a total of 35,384 aged, blind and disabled persons received cash assistance at rates such as those stated above. Even though most of the residents of these territories are citizens of the United States, they face severe discrimination because of this disparate treatment. We know no better way of stating our position than the works of President Carter to the Governor of Puerto Rico: "The Constitution of the United States does not distinguish between citizens. We do not have in our country first and second class citizens."

RESOLUTION

Whereas H.R. 3236 would place a regressive ceiling on the total family benefits of future disabled beneficiaries;

And whereas this legislation would change the "drop-out years" formula to the detriment of disabled beneficiaries especially those who become disabled before age 47;

And whereas we recognize that H.R. 3236 is only the first step in an announced plan to reduce benefits for other categories of Social Security beneficiaries;

And whereas a coalition of more than 100 organizations including the American Council of the Blind has been formed to oppose the reactionary and regressive provisions of H.R. 3236;

And whereas this organization appreciates the substantial assistance being given through this coalition by organizations of older persons, labor, women, minorities and others; now therefore be it

Resolved by the American Council of the Blind in convention assembled on this 7th day of July, 1979 in Grand Rapids, Michigan, that this organization actively participate in the collective effort to defeat H.R. 3236 and other detrimental legislation affecting other classes of Social Security beneficiaries; and be it further

Resolved That this organization petition the House of Representatives to defeat H.R. 3236 and that Council members be urged to petition their representatives accordingly.

Testimony of the Pennsylvania Alliance of Physically Handicapped and Disabled in Action of Pennsylvania

The Pennsylvania Alliance of the Physically Handicapped and Disabled in Action of Pennsylvania are comprised of seven organizations of the disabled and handicapped in Pennsylvania with nearly 2,000 members who have organized to advocate for the civil rights and statutory entitlements of the disabled.

This testimony is submitted to oppose most strenuously, two punitive provisions of H.R. 3236 (Sections 2 and 3), the Disability Insurance Amendments of 1979, which do nothing to establish work incentives, are based on factual and accounting assumptions which to date have misled Congress, and which deprive the least able in our society of income essential to their lives and well-being.

A. THE HARMFUL EFFECTS OF H.R. 3236 ON DISABILITY INSURANCE BENEFIT LEVELS

1. *Section 3 reduction of drop-out years for younger disabled workers*

Under current law Disability Insurance benefits are based upon an individual's average countable lifetime earnings minus the five lowest years of earnings (the "drop-out" years).[1]

Although current law allows five years of low earnings to be dropped, H.R. 3236 would allow drop-out years as follows:

Worker's age	*Number of drop-out 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 most significant effect of the change in drop-out years would be to lower benefits for younger disabled workers, since they would be permitted to drop fewer years of low earnings when computing the average earnings upon which benefits are based.

The House Committee stated in its report that the purpose of the reduction in drop-out years for younger DI recipients was to "reduce the disparity in disability benefits between young and older disabled workers." (p. 6)

This has surface appeal as the percentage of the worker's covered earnings decreases as the age of the worker increases. For example, two individuals who both began working at the age of 20 might become disabled at the ages of 31 and 58 respectively. Under current law, both would drop their five lowest years of earnings, so the younger disabled worker would have benefits computed on 6 of his 11 years of earnings, while the older worker would have his benefits computed on 33 of his 38 years of earnings. Thus, the percentage of earnings years upon which benefits were based would be 54.5 percent of actual earnings history for the younger worker and 86.8 percent of actual earnings history for the older worker.

But upon a closer examination, however, it would appear that the H.R. 3236 proposal leads to unexpected and unintended hardships for persons who become disabled at a younger age.

First, persons who qualify for disability benefits at younger ages must be among the most severely disabled of all DI beneficiaries in order to qualify for benefits in the first place. Older disabled workers can become eligible for coverage based upon a combination of age, education, training and work experience under a new "grid" system instituted (see Appendix "A" attached).

A second factor is that workers who become disabled at a younger age are "frozen" at the average earnings level at which they become disabled. Thus, while their age group peers can share in the growth of the economy, and can add to that by growth in their own earnings capacity, the unfortunate person who becomes severely disabled at a younger age benefits only from regular cost of living increases. What occurs, then, is that the younger worker who becomes disabled under current law can enjoy a benefit advantage during his first years of coverage; however, he will lose that advantage as he becomes older and "falls behind" the growth in the national economy. If Section 3 of H.R. 3236 is adopted, he not only will start out at a much lower level of benefits, but also will experience a significant additional drop in his relative income as compared to his peers.

2. *Section 2 limitation on maximum family benefits in disability cases*

H.R. 3236 proposes to limit family benefits to 1.5 times the individual benefit among (PIA), or 80 percent of average indexed monthly earnings (AIME), as long as the family received at least 100 percent of the amount to which the individual would otherwise be entitled.

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[1] Average earnings are considerably less than those earned immediately prior to the onset of disability. The justification for the "cap" on benefits in Section 2 is based on the misleading premise of comparing benefit levels to earnings immediately prior to the onset of disability, and not to average lifetime earnings which is current law.

This "cap" would have a significant negative impact upon all new disabled workers with families. For younger disabled workers with families, the impact would be even greater since the average earnings upon which their individual benefits are based would be lower as a result of the reduction in "drop-out" years.

As one can see by the table and graph attached as Appendices "B"; and "C," benefit levels under the proposed "cap" on benefits would be significantly less than average lifetime earnings which, in turn, are generally lower than actual earnings immediately prior to onset of disability.

B. THE ERRONEOUS AND INHUMANE JURISDICTION FOR THESE CUT BACKS

A slickly packaged rationale for these cuts has been given to the Senate, which under close scrutiny, shows major fallacies. The House Report, No. 96-100, p. 4, stated: 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.

The main rationale assumes:

1. That replacement rates in the DI program are high;
2. That actuarial studies of the private sector can be applied accurately to the DI program;
3. That disability insurance recipients can return to work; and
4. That reducing benefits to all disabled workers with families and to younger workers will provide these recipients with the incentive they need to return to work.

Let us examine the assumptions outlined above and the date used to support these assumptions.

Assumption No. 1—Replacement rates in the DI program are high

According to the Committee report cited above, former Secretary Califano testified before the House that: 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 Social Security Administration has revealed to us how these numbers were derived. According to the SSA, they conducted a random sample of 10,000 DI recipients in 1976 (prior to enactment of the 1977 decoupling amendments reducing benefits). They used the benefit levels of these 10,000 beneficiaries to estimate average pre-disability earnings. They then estimated the earnings levels of these recipients immediately prior to disability based upon an estimated average rate of growth for all workers. The next step was to estimate net income based upon the average net income as a percentage of gross income of workers in the economy. Completing all of this, they estimated the impact of the benefit reductions in the 1977 amendments, estimated the rate of growth from the 1976 sample to the present time, and thus arrived at the "official" figures cited above.

The assumptions used to determine "net" income as a percentage of gross income both prior to and after onset of disability are as unreliable and fanciful as the remarkable process of estimation cited above. The SSA recently issued a table of "replacement ratios" (i.e., "net income" before disability compared to "net income" after onset of disability) for a worker with a spouse and 2 children, that shows a replacement ratio of over 80 percent for virtually every wage level. Accompanying that official SSA chart, however, is a list of assumptions upon which the "replacement ratio" is based:

1. The worker becomes disabled on January 1, 1979, at age 47. (If he is younger than 47, his average earnings upon which benefits are based probably would be lower, so the replacement ratio also would be lower!)
2. The worker's earnings grow at the average rate for all workers. (Again, the replacement ratio would be substantially altered if his earnings history was not "typical.")
3. Federal income taxes are computed assuming a standard deduction and using the 1978 tax tables. (a) What if he does not use the standard deduction? (b) The tax schedule in 1979 clearly is not going to be identical to the tax tables for 1978.)
4. OASDHI taxes are based on the 1978 rate of 6.05 percent. (What will the rate be in 1979?)
5. State income taxes are 19 percent of Federal income taxes, the national average. (This would vary greatly since some states have little or no income taxes and others have very high rates.)

6. Work expenses equal 6 percent of gross earnings. (They subtract 6 percent of gross earnings from pre-disability income, yet they subtract nothing from gross income after onset of disability for disability-related expenses! If someone is disabled enough to receive benefits, they often must hire other people to do those things they used to do for themselves, such as mow the lawn, clean house, drive a car, shop for groceries, etc. Severely disabled people must hire attendants to give them baths, feed them, dress them, and cook for them. For a severely disabled person, one of the most frustrating, unsolvable problems is the financial burden of a disability—yet this factor is not even considered by the Committee or the SSA in determining "net" income available to the disabled person and his family.)

7. The SSI guarantee includes a $30.00 State supplement. (a) Applies only to those who are at such a low level of income that they are eligible for welfare in addition to their DI benefits. (b) 26 out of the 50 states—or over ½—do not supplement the minimum SSI payment.)

8. DI benefits are the January, 1979 payment at an annual rate.

9. Spouse's earnings in a two-earner couple are assumed to be $6,000, whatever the earnings level of the worker.

10. The replacement ratio is equal to the family's income after the worker becomes disabled as a percentage of the family's pre-disability earnings.

In other words, if both spouses are working prior to the onset of disability in one of them, it is assumed that the non-disabled spouse will continue working, although in actuality spouses of some disabled workers must quit work in order to care for the severaly disabled spouse.

11. The average replacement rate is a weighted average of the replacement rates for one and two-earner couples. The weights are the percentages of one and two-earner couples among all beneficiaries with children under 18 (58 percent and 42 percent, respectively). (This "average" replacement rate, of course, includes all of the assumptions listed above.)

In sum, then, are replacement rates in the DI program "high"? If you build in all of the assumptions that the Committee did to the "net" figures arrived at, it would appear that they are. Since most DI beneficiaries obviously do not fit all or most of the criteria built into these figures, it seems to us to be dangerous and extremely foolhardy to cut benefits to younger workers and families based upon the complex "guesstimates" used to arrive at these figures. More accurate and realistic then these is a comparison of "replacement ratios" benefit levels to average lifetime earnings in Appendices "B" and "C." These figures appear to be much more realistic and reliable figures than the ones provided by the SSA actuaries, and do not show anyone getting benefits that are too high.

Assumption No. 2—Actuarial studies of the private sector can be applied accurately to the DI program

Despite the temptation to do so, it is inappropriate and misleading to compare the private disability insurance data with the Social Security disability insurance program. Such a comparison is inappropriate for the following reasons according to Professor of Law Merton C. Bernstein, in a statement addressed to the Ways and Means Committee in March, 1979:

The inapplicability of private insurance experiences

1. *Inaccurate Comparison.*—Nor is the (HEW) Secretary accurate when he states that the 80 percent cap "will still leave benefits well above those of private insurers." The two-thirds limits found in private insurance apply to total earnings, which were very low until recently. Moreover, private disability benefits are found only in high pay jobs.

2. *Differing purposes—private plans designated to facilitate removal of active workers*

A frequent purpose of private plans is to facilitate the removal of active workers when they do not perform up to the desires of management. In some plans—as also with public programs for Police and Fire Pension Programs—the program is designed to enable insiders to retire at relatively young ages with favorable tax treatment. And private plan definitions of disability frequently enable retirement if the individual no longer can do his assigned job, rather than any job. Any number of such plans give management the option to require the retirement and when it, rather than the employee, makes the choice the benefits are higher * * *. So, the argument that experience under private disability plans shows high levels of retirement does not apply to the DI program. Many such private plans provide the high benefits purposely to enable easy separation. The purpose, definition and administrative approach of private plans frequently—I would say, usually—differ from those in DI.[3]

Assumption No. 3—Disability insurance recipients can return to work

Although a small percentage of DI recipients coud possibly return to some kind of work, that would include part-time or temporary employment. Under the DI program, however, the concept of a partially disabled worker does not exist! Consequently, either you do not work at all and are considered to be disabled, or you attempt to return to work and are dropped from the program.

DI recipients must meet the strictest disability determination criteria in order to even be accepted by the program. In fact, over 70 percent of those who consider themselves disabled enough to apply for benefits are turned down. This would indicate that those who are awarded DI benefits are among the most severely disabled persons.[4]

Nevertheless, some of these severely disabled persons would like to return to limited employment, but they risk losing their DI and Medicare benefits by doing so.

These severely disabled persons are not the "malingerers" that some have portrayed them to be. They simply are ordinary people who have worked all their lives, have now become disabled, and therefore have been re-defined by society as being unemployable. If they indicate a desire to attempt limited employment, they lose their only guaranteed source of income and the only medical coverage to which most of them are entitled.

Again, only a small percentage of DI recipients could possibly return to some type of employment, yet the benefit cuts in H.R. 3236 would affect all new DI recipients with dependents and all new disabled workers who had the misfortune or becoming disabled before the age of 47.

Assumption No. 4—Reducing disability insurance benefits will encourage DI recipients to return to work

If DI recipients were not severely disabled as a matter of definition, this assumption might prove to be true. However, consider the following statistical data concerning DI recipients:

31.3 percent of DI recipients surveyed in a 1966 study had some sort of mobility restriction including 8.8 percent of the total DI population who were confined to a chair or in a bed.

69 percent of DI recipients in that same survey had spent over a month in the hospital during the preceeding 5 years; 28 percent had spent over 3 months in the hospital during the preceeding 5 year period.

60.2 percent required personal assistance because of their disabilities.

82.7 percent of those surveyed were over 45 years old, with 22.2 percent of the DI recipients at that time over the age of 60. In 1975, 30 percent of new beneficiaries were over age 60.

A clear conclusion can be drawn that the great majority of DI recipients are not going to be able to return to work particularly on a high unemployment economy and recession. The reduction in benefits will simply mean that they will have less money to live on.

C. DISABILITY INSURANCE BENEFITS ARE ALREADY LOW AND CANNOT BE CUT BACK FURTHER

DI benefits already are low (even before decoupling). The most recent new benefit awards reported averaged $327.66 a month disabled workers. (In September, 1978, reported in January, 1979 Social Security Bulletin page 1). Published data do not readily show the average family benefits in payment status. However, the family maxima tend to be less than twice the primary benefit (see Appendix "B"). A $600 average family benefit below $600 a month might be a reasonable guess. $150 a week for a family of five hardly will lure many—if any—from live jobs if they could get and keep them.

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[3] "The Questionable Cure for the Crisis that Doesn't Exist," by Merton C. Bernstein, Walter D. Coles, Professor of Law, Washington University. Submitted to the Subcommittee on Social Security, Committee on Ways and Means, U.S. House of Representatives, March 21, 1979.

[4] A beneficiary must be unable to do "*any* kind of substantial gainful work" "*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.*" Section 223 (a) (2) (A), Social Security Act. (Italic added.)

Income needs of the disabled

1. *Cash income—before and after disablement.*—Practically all disabled people need more cash income after they are disabled than before. The reason simply is that the able-bodied do many things for themselves that disablement often prevents. Many such activities are the equivalent of income. Many are essential to day-to-day existence. To the extent that other family members assume those functions, their ability to work, to learn, and tend their own affairs is reduced. Meanwhile, the savings resulting from not working are negligible.

In estimating the needs of disabled people, it is common to note that not going to work results in savings—on transportation, clothing and food. Well, the disabled must eat at home. Most people who qualify for DI formerly performed blue or gray collar work, most of whom take their lunch boxes or brown bags (or whose employers provide food). So, savings on food would be infrequent and not certain for all disabled. While white collar workers might save on clothing by not going to work, blue and gray collar workers do not. Transportation costs would be saved. However, to the extent that the disability prevents driving (as many conditions of their treatment do), any disabled must use more expensive forms of transportation, such as taxi cabs. In blue and gray collar families, both spouses work more often than not; and if the non-disabled spouse didn't before, she or he will do so after the partner's disablement if she/he can be spared. So transportation services by other family members cannot be readily assumed.

Most of us turn our thermostats down when all family members are at work and at school. A disabled person staying at home inevitably has higher heating, cooling, lighting and cooking bills than before.

In sum, lower benefit cannot be reasonably predicted on savings attributable to not working.

Taxes on pay would be saved. At the lowest tax bracket paying 14%, after deductions and standard exemptions, this savings cannot be more than—or even as much as—10 percent.

2. *Increased health care costs—Unavailability of medicare.*—Moreover, medical expenses usually increase for the disabled. Private work-based health insurance disappears with one's former job. And Medicare does not become available to DI beneficiaries during the first two years of disability—a terrible hardship.

3. *Loss of pre-disability non-cash income.*—Many able bodied people engage in non-employment activities that produce goods and services to themselves and their families—what economists call "imputed income." So, for example, many people do their own repair work. Rather than paying plumbers, electricians, painters or mechanics, they fix and maintain their homes and cars. They plant gardens and grow some of their own food; they tend fruit trees and mow their own lawns.

One study at the University of Michigan paced the average value of such activities at $3,500 a year per family (in 1964 prices)—or the equivalent of about half of average family cash income. (The two figures would have to be increased substantially to translate into 1979 dollars.) These activities included housework. Anyone who has coped in the absence of his/her spouse, knows that housework takes enormous effort and time. Where one substitutes for the former activities of another family member, the activities subtract from income production, other tasks producing imputed income, study and, not unimportantly, leisure. Indeed, studies show that disablement places enormous strains upon family relationships, often leading to family break up, which is hardest on the disabled person.

One out of three DI beneficiaries also receives SSI (whose qualifying criteria and benefits are not themselves terribly generous). That provides some measure of the adequacy of DI benefits. In all, the blind and other disabled receiving SSI benefits numbered about 2.2 million persons (in September, 1978). They about equaled the number of destitute aged (over 65) receiving SSI.

These are seriously disabled people. Work (of any substantial amount) is not a real alternative for them, at least not under existing economic conditions.

They should not be the first group sacrificed to the demand for economy. Indeed, they should be among the last.

D. THE WHOLE IMPETUS FOR SECTIONS 2 AND 3—AN ALLEGED DISABILITY INSURANCE CRISIS—DOES NOT NOW EXIST

The DI cost crisis which motivated these two provisions has passed.

1. *Applications down.*—"The growth rate of the number of beneficiaries on the [DI] rolls is the lowest since the beginning of the program," Secretary Califano informed the Committee on Ways and Means on February 22, 1979.

In 1974 and 1975, the unexpectedly rapid increase in Disability Insurance rolls and costs foreshadowed the impending bankruptcy of the Social Security Disability

Insurance Fund. After a relatively slow start, in the late 1950's benefit awards increased upward from 208,000 in 1960 to 536,000 in 1974 and 592,000 in 1975. But 1976 and 1977 showed significant slackening in the annual rate. And the 1978 monthly figures indicate that the tide is ebbing: New DI awards—September 1977, 43,957—September 1978, 37,499. (Social Security Bulletin, January 1979, Table M-17, page 64). Awards to dependents declined commensurately.

It seems thoroughly inappropriate to make the disabled pay for the assumptions of economists and other social scientists whose mathematics and motives were pure but whose projections, experience shows, are proving incorrect.

2. *Decoupling his already reduced benefit costs.*—Mistakes that Congress and SSA made in providing for the cost of living indexing of benefits constitute a major reason for greater than expected benefit costs. But Congress rectified that error last year by its decoupling amendments, which should reduce projected benefit outlays, possibly as much as 25 percent.

These two substantial developments mean that the anticipated crisis has passed. It would compound past mistakes to change benefits to solve a problem whose causes no longer exist.

At the very least, it would be prudent to wait and see what will develop before proceeding to drastic action based upon assumptions that are not panning out.

E. SUMMARY

The current desire of some to reduce DI benefit levels appears to be a "leftover" urgency based upon the unexplained growth in the number of beneficiaries during the early 1970's, and the severe financial problems plaguing the system at that time.

Since 1978, however, the rate of growth of the program has actually declined with applications and awards dropping to the lowest rates in two decades. Benefits and projected costs were reduced as a result of the "decoupling" provision in the 1977 amendments. Finally, the financial status of the DI trust fund is in excellent shape according to the trustees of the fund. In fact, they have predicted that a surplus will exist in the DI trust fund into the next century.

Those awarded benefits as disabled are disabled. The statute, regulations and SSA Administration are rigorous.

The work potential of DI benefits is negligible, especially in current high unemployment conditions. The HEW Secretary's emphasis on rehabilitation is at odds with program history. It is not realistic to expect rehabilitation to return substantial numbers of DI beneficiaries to substantial earnings—most of those "rehabilitated" achieve no earnings or only sight earnings—but many, nonetheless, lose benefits.

An abuse alleged is entirely theoretical. Proceeding on the assumption that some benefits are high (very few are), it goes on to assume that some beneficiaries prefer benefits to work, as if many had a choice. The allegation of malingering is completely unsubstantiated.

In fact, the disabled do need more money after disablement than before. Many of the things they formerly did for themselves, some of which generated substantial imputed income, they no longer can do. Meanwhile, their living costs go up—more for home energy costs, more for medical care.

The proposals in Sections 2 and 3 would be wrong if there were a crisis in DI costs. In the absence of such a crisis, they are doubly wrong.

Cutting benefits to severely disabled workers will not improve the DI program or reduce the number of persons who become disabled in the future. What it will do is to place even more financial burdens upon those persons who become disabled in the future.

We strongly urge the Senate to take a second look at the disability insurance program. The benefit changes being proposed in H.R. 3236 are not minor, and the net effect will be to undermine the very tenets upon which the disability insurance program is based.

APPENDIX A

SITUATION WARRANTING FINDING OF DISABILITY UNDER THE MEDICAL-VOCATIONAL GUIDELINES

Highest work capability [1] and age [2]	Education	Previous work experience
Medium:		
60-64	Marginal or less	Unskilled or less.
55 or over	Limited or less	None.
Light:		
55 or over	Limited or less	Nontransferable skill or less.
55 or over	Any amount without entry skill	Unskilled or less.
50-54	Illiterate or non-English	Unskilled or less.
Sedentary:		
55 or over	Any amount without entry skill	Nontransferable skill or less.
50-54	Any amount without entry skill	Nontransferable skill or less.
45-49	Illiterate or non-English	Unskilled.

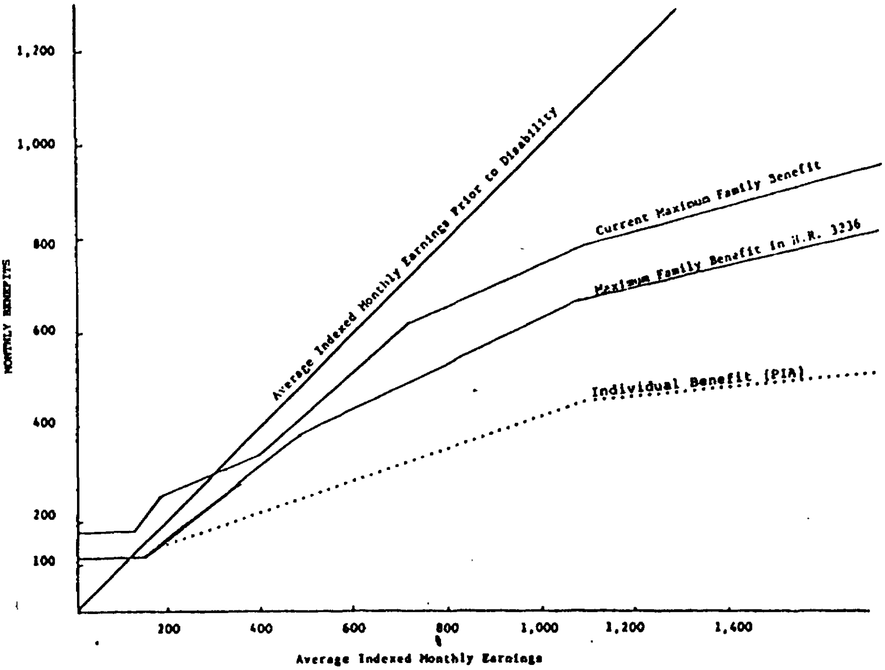
[1] No finding of disability for anyone able to perform very heavy or heavy work.

[2] No finding of disability for anyone younger than the listed age for any entry. There is no need to determine disability of those who have reached age 65.

APPENDIX B

Average indexed monthly earnings based upon all covered lifetime earnings	Individual benefit level (PIA) under current law	Maximum family benefit level under current law	"Cap" proposed in H R. 3236
$100.00	$121.00	$181.50	$121.00
150.00	135.00	202.50	135.00
200.00	168.40	252.60	168.40
250.00	184.40	276.60	200.00
300.00	200.40	300.60	240.00
350.00	216.40	324.60	280.00
400.00	232.40	351.50	320.00
450.00	248.40	395.00	360.00
500.00	264.40	438.60	400.00
550.00	280.40	482.10	420.60
600.00	296.40	525.60	444.60
650.00	312.40	569.10	468.60
700.00	328.40	612.60	492.60
750.00	344.40	639.00	516.60
800.00	360.40	660.40	540.60
850.00	376.40	681.90	564.60
900.00	392.40	703.30	588.60
950.00	408.40	724.80	612.60
1,000.00	424.40	746.20	636.60
1,050.00	440.40	770.60	660.60
1,100.00	453.80	794.10	680.70
1,150.00	461.30	807.20	691.90
1,200.00	468.80	810.30	703.20
1,250.00	476.30	833.50	714.40
1,300.00	483.80	846.60	725.70

APPENDIX C



Impact of Proposed "Caps" on Family Benefits in Relation to Average Indexed Monthly Earnings of the Worker Before He Became Disabled

STATEMENT BY THE CONGRESS OF ORGANIZATIONS OF THE PHYSICALLY HANDICAPPED

The Illinois Chapter of The Congress of Organizations of the Physically Handicapped supports H.R. 3236, The Disability Insurance Amendments of 1979. For years we have been advocating the removal from the Social Security Act of disincentives to a return to gainful employment

Part of the problem of the Disabled and the Social Security Act is a historical one. Expectations of what the Act can do for people and should do for people have risen over the years far beyond the conception implicit in the original legislation of the thirties. This observation applies to all beneficiaries under the SS Act, perhaps even more to retirees and widows and dependents than to the physically disabled, who were not even covered until 1956. Whether this increased expectation on the part of our citizens with regard to SS protections is a good thing, a social services design to be encouraged as more effective and secure than private pension and annuity plans, is a matter for the Congress to debate and decide.

We must also comment on what must seem to many a contradiction in the idea of a severely disabled person going back to work. How can a quadraplegic, a double amputee, a palsied man, a wheel chair-bound young lady go out and do a job of work? The answer is that they do. Part of the reason behind it is the marvel of rehabilitation medicine, in which this nation leads the world. Other nations may be more compassionate in their dealings with the disabled, but we in the U.S. of A. are pragmatic in our tenderness, and have developed electric wheel chairs that speed about and do everything but sing a lullaby for their stout-hearted pilots.

We feel that there is a great deal of misunderstanding about this bill which we see as a compromise in the very best connotation of that much abused term. We do not like the caps on family benefits and hope that the House and Senate committees responsible, will closely monitor the effects of those provisions, to see that hardship is not visited on the poorest of the poor. We perceive a certain selfishness in the heated opposition of Associations of senior citizens who are not even affected by these amendments.

The spirit of the handicapped today is towards work and independent living and we hope that Congress will foster this spirit and support the will of disabled people to return to work, with compassion in their hearts and cash in their appropriations.

Thank you, Mr. Chairman, and members of the committee.

MARGARET PFROMMER,
President.
AUGUST CHRISTMANN,
Executive Director.

STATEMENT SUBMITTED BY THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO-CLC

Mr. Chairman, members of the Committee, the International Association of Fire Fighters is pleased to have this opportunity to express our views for the record of the Committee's consideration of the Disability Insurance Amendments of 1979. The IAFF is an AFL-CIO affiliate union which represents over 175,000 professional fire fighters throughout the United States and Canada. Some of our members participate in the social security program and so would be affected by the subject amendments. The probability of disablement for fire fighters is so high that we must strive to assure and improve the protection of our members from the loss of earnings and other problems that stem from disabling injuries.

The amendments contained in the House-passed bills, H.R. 3434 and H.R. 3236, include some necessary improvements as well as several provisions that are ill-advised. The legislated improvements to the Supplemental Security Income program embodied in H.R. 3434 are reasonable and should have a positive impact on that program. The IAFF is troubled by several provisions of H.R. 3236 because they do not make reasonable changes in the Social Security Disability program. The IAFF is concerned that the improvement offered by some elements of the bill will be negated by several proposals that cannot properly be related to the stated intent of the bill. We identify these problems areas as; (1) the Maximum Family Benefit alternation, (2) the reduction of Drop-Out Years, and (3) revisions of the State-Federal structure.

We note first that the legislative intent attributed to these amendments was to "remove existing work disincentives in the Social Security Disability Insurance program." It is implied that a disabled worker under current law might be entitled to a benefit over and above that worker's normal wage; i.e., the disabled worker would be reluctant to go back to work because he gained a greater income from remaining on the disability rolls. It is unfortunate that some find it possible to suggest that a worker seeks a disablement in order to increase his take-home pay or that the worker fakes his condition in order to gain a higher income. The IAFF takes strong offense to suggestions that fire fighters would purposely seek out the kinds of horrible injuries we typically sustain just to "rip-off" the system. Fire fighters suffer severe burns, crushed and severed limbs, and related respiratory and heart disabilities. The medical costs alone may continue for the rest of the fire fighter's life. Many of these disablements reduce the life expectancy for fire fighters. Thus, the costs of disability as measured by the burden on that person's family are very high. Indeed, the costs are much higher than the amount of a disability check.

These amendments appear to be an overreaction to a few cases highlighted by the media in recent years of individuals abusing the system. Several of those non-typical cases were uncovered here in the District of Columbia and it is not difficult to see how the opportunity was perceived by some to legislate punishment for a few through restricting the disability benefits for all. However, disability retirement gained by massaging rules already on the books is not the same as being disinclined to return to work. The real problem has been that the disabled are so constricted by the definition of disability and allowable earnings under social security, that they have been caught in a squeeze because the program has not realistically met their needs as they attempt to rehabilitate themselves. The disabled will need some financial support for a time while they make readjustments to new careers and life-styles. Given the definition of disability under current law, many disabled persons may not succeed and will indeed be forever on the disability rolls. The work incentive provisions in H.R. 3236, particularly the automatic reinstatement provision section, finally addresses this matter with a sensitivity long overdue in the disability program.

The structure of a fire fighting workforce includes a majority worker population that can be termed as "younger men." A younger worker who becomes disabled has family obligations that do not diminish to parallel that worker's diminished earning capacity, whether the disablement is temporary or permanent. The inflationary spiral of our time makes it very easy to accumulate a mountain of debt through just a temporary diminution of income. One damaging aspect of this new legislation involves sharply curtailing the number of earnings years a worker may "drop out" in computing his disability benefit. This change does not account for the lower earnings usually made by workers in the early years of employment. The effect will be that benefits for younger disabled workers and their families will be reduced while these workers have lower incomes, lower savings, and fewer overall resources with which to raise their families and lead productive lives.

The amendments to the maximum family benefit provision represents another limiting factor that does not seem to be relaxed to reducing work disincentives. Under current law, the disabled worker effectively chose between two measures of the maximum family benefit. The amendment proposes to grant only the lower of these two measures.

The two measures are either 80 percent of the Average Indexed Monthly Earnings or 150 percent of the worker's Primary Insurance Amount. Now, if it is found that the 80 percent measure is the lower amount, under H.R. 3236, the disabled worker receives that amount and is precluded from the measure based on 150 percent of his primary insurance amount. However, the provision suffers from a similar deficiency as that found in the drop-out years amendment. We are particularly concerned because the Average Indexed Monthly Earnings amount is computed over the worker's earnings lifetime. The 80 percent limitation is not applied to the worker's earnings upon disablement but to the average indexed monthly earnings computation. As with the dropout years, the amendment severely affects younger workers in that their lower accumulated lifetime earnings will, by formula, entitle them to a lesser benefit than they might otherwise be eligible for. The effects of both amendments penalize workers because they are young, not because they have no incentive to return to work. Once again, those who feel that changes are necessary are taking the simplest path of cutting back on funds rather than making the more difficult alterations in the regulations. These amendments are part of the overall panic over the financial condition of the Disability Insurance Trust fund which began in 1977. When it was learned that the fund was nearly out of money, sources of money were searched out and everyone was looking to place the blame on someone. Public employees were sought out, particularly fire and police personnel, due to some news accounts of abusers of the program. However, the CBO has already stated the currently improved condition of the Disability Trust fund and the measurable drop in the rate of increase of disability beneficiaries.

The CBO attributes this to the tightening of the administration of the program over the last two years. The IAFF questions the implication that the curtailing of benefits such as would be done by the provisions of H.R. 3236 previously mentioned will go far toward reducing work disincentives. The implication is that if a worker cannot get what some believe are excessive benefits, then he or she will return to work sooner.

This is a specious claim that obscures the real administrative problems that result in disabled people being fearful of attempting to get back to work because they must endure so may offsets of their disability benefit while they are trying to become productive again. We are faced with a situation where the Congress is trying to act with sensitivity and with attention to equity by improving the reinstatement mechanism on the one hand while with the other hand taking money out of the pockets of beneficiaries who can least afford the reduction.

The amendments to the present state-federal structuring could indeed bring a measure of uniformity throughout states administration of the disability program. The mechanism must not be allowed to degenerate into competition between state and federal authorities. Otherwise, the effect of the amendment may be to employ more bureaucrats and stimulate growth in paperwork rather than uniform standards for determination of disability.

Along with the improvements proposed for the reinstatement provisions, we urge the liberalization of the Substantial Gainful Activity (SGA) definition. This would go a long way toward treating equally the beneficiaries of social security and disability.

H.R. 3236 is not an entirely undesirable bill. In some ways the opportunity has been provided to make real changes and to sensitize the disability program and this we support. Our comments under this title were for the purpose of identifying those amendments which we feel detract from the many positive elements contained in the bill. We urge this Committee to carefully consider the equity involved in this matter. We urge that the Committee not adopt the negative aspects of the altered maximum family benefit and the drop-out year reductions. Such changes are not in concert with the overall philosophy of the social security system. The IAFF extends its appreciation to the Committee for its consideration of these remarks.

NURSING HOME RESIDENTS, ADVOCATES,
Minneapolis, Minn., September 31, 1979.

MICHAEL STERN,
Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR MR. STERN: I am writing in behalf of H.R. 3464 which is now awaiting Senate hearings October 9. Minnesota is not a state which combines MA and SSI. We are struggling to get a separate incentive bill passed by HEW waiver. The vocational counselor at Courage Center knows 34 severely handicapped individuals with a college technical training who would be working if we had such a law.

Especially in these days of social security cutbacks, it is ironic that handicappers who want to work dare not take jobs because of problems with medical assistance eligibility. One cannot be substantially gainfully employed and pay all bills on $289 per month.

Sincerely,

JOY SAMSEL.

STATEMENT SUBMITTED BY THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATION

The AFL-CIO is pleased to submit testimony in connection with your hearings on H.R. 3236 and H.R. 3464, bills passed by the House of Representatives, which would make major changes affecting the disabled in the Social Security Disability Insurance Program and the Supplemental Security Income Program.

Our initial comments pertain to H.R. 3236—a bill which contains unwise and unnecessary benefit reductions which will create serious injustices for the disabled workers and their families

H.R. 3236

H.R. 3236 would limit in the future total family benefits to 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of such individual's benefit whichever is lower. The latter is referred to as the primary insurance amount (PIA) and benefits for dependents and survivors are based on it. The bill also restricts the number of years of low or no earnings that younger workers drop out in computing their average wage on which benefits are based. Present law allows all disabled workers to exclude 5 years of low or no earnings.

H.R. 3236 also has a number of work incentive provisions to encourage beneficiaries to return to work, to strengthen the existing federal-state administrative structure, and to provide more federal control over state decision making in the disability determination process.

We strongly urge that this bill not be enacted into law for the following reasons:

1. The primary insurance amount (PIA) is not based on earnings just prior to disablement but on the average of all credited earnings which, in most cases, includes the quite low earnings and wage bases of years ago. Thus, future beneficiaries with families subject to the limit of 80 percent of average indexed monthly earnings or 150 percent of their PIA would receive significantly lower benefits than under present law. On an average, the bill will result in a 15 percent reduction in future benefits for disabled workers with families. For workers earning less than $15,000 at time of disability, the reduction will be even greater.

2. The proposals are contrary to the nature of the Social Security Program. They fail to recognize that Social Security benefits are deliberately designed to favor those with low earnings and many dependents in order to prevent poverty and insecurity. The result, in many cases, will be to force families to live on grossly inadequate and poverty level benefits.

3. A higher benefit ratio for younger workers is appropriate because their earnings tend on the average to rise in the early years and reach a peak in the middle years. Young, disabled workers are denied the higher real earnings and standard of living which they could have expected if they had been able to remain at work.

4. The disabled need more cash income than they earned in order to maintain the living standards approaching those they had prior to disability. For example, disabled workers usually lose valuable fringe benefits provided by their employers—particularly costly health care for themselves and their families. In addition, the disabled can no longer do for themselves many of the things that the non-disabled can do. Many of them can no longer drive, do their own marketing, cut their own lawns, repair and paint their homes and must hire these kinds of services.

5. The current definition of disability under the law requires individuals to have a physical or mental impairment so severe that they are not only unable to do their own work but cannot, considering their age, education and work experience, engage in any kind of gainful employment. In short, a worker must be judged unable to work in order to be eligible for benefits. Though efforts should be made to encourage rehabilitation of beneficiaries and their return to gainful employment, such efforts cannot be expected to have a major impact on reducing costs and attempting to do so by reducing benefits will disadvantage the majority of the disabled who cannot be expected to return to work no matter how much they might desire to do so.

6. The disability program is under review by the Advisory Council on Social Security and the National Commission on Social Security. These study groups were mandated by the Social Security Amendments of 1977. The Congress will have their recommendations in the near future and should not act on the proposals until these studies and recommendations are available.

7. These proposals first arose during a period when pressure was on to lower Social Security taxes and there was supposedly a "crisis" in disability insurance costs. The recently issued annual report of the Trustees of the Social Security System reported that the disability trust fund is running a surplus because awards have dropped to the lowest rate in two decades. The number of disability benefit awards has declined from 552,000 in 1976 to 456,000 in 1978 and the growth rate of the program is the lowest since its beginning. The program is on a sound financial basis for the next 50 years. Thus, there is no pressing financial need to adopt proposals which would impose unnecessary suffering on disability beneficiaries.

Work incentive provisions

The work incentive provisions of H.R. 3236 would encourage and enable some beneficiaries to return to work in spite of their impairments. Though efforts should be made to encourage rehabilitation of beneficiaries and their return to gainful employment, such efforts cannot be expected to have a major impact on reducing costs. Social Security Administration studies show that typically the disabled are older persons who performed unskilled or low skilled work demanding physical effort which yielded low pay. Most suffer from degenerative, not traumatic conditions.

The serious adverse impact on beneficiaries that would be caused by H.R. 3236 far outweighs the beneficial provisions relating to work incentives. This is the position taken by all major organizations of disabled persons as well as over 100 labor, aging, social action, education, church and citizen groups. These provisions of the bill can and should be passed as separate legislation.

In addition, we urge in such separate legislation liberalization in the definition of substantial gainful activity (SGA). The current earned income limit of $280 per month used to terminate benefits should be made the same as that for the retirement test for retired Social Security beneficiaries under 65. Also, as for the retirement test, disability benefits should be reduced by one dollar for every two dollars in excess of the SGA amount. This would provide equality of treatment for Socail Security (OASI) and disability beneficiaries and eliminate the inequity and the disincentives that exist because disabled beneficiaries lose all benefits when their earnings exceed $280 per month.

Administration

The program would be difficult to administer under the best of circumstances, given the definition of disability that must be adjudicated. Major program changes and extensive new programs, like Supplemental Security Income (SSI), have contributed to the agency's administrative problems.

The law directs the Secretary of Health, Education and Welfare to enter into an agreement with each state authorizing an appropriate state agency to make determinations of disability for residents of the state. The present situation has inherent limitations for the Social Security Administration in terms of its capacity to coordinate and control state agency activities and administration. The agency has only limited authority to redetermine state decisions. Some states apply eligibility standards stringently while others do not. Many states deny disability benefits to persons who would qualify in other states. The state agencies also make decisions on hiring, overtime, salary levels and selection of administrators as well as other matters. It is difficult for the Social Security Administration to administer satisfactorily what it cannot effectively control.

H.R. 3264 attempts to strengthen the existing federal-state administrative structure and provide more federal control over state decision making. Many of the proposals would improve matters but would be much less effective than federalization of the disability determination process. The General Accounting Office (GAO) recommended federalization in a recent report to Congress—a position long advocated by the AFL-CIO. This is a more effective approach and we urge that it be done.

I would now, Mr. Chairman, like to present our recommendations for a number of additional program improvements.

Definition of disability

The AFL-CIO has long believed that the definition of disability is far too stringent. We advocate an occupational definition of disability that would allow disabled workers after 50 or 55 to receive benefits if they are unable to handle their unusual occupation. The present definition of disability denies disabled workers benefits if they are considered able to perform any job at all, no matter how different from their usual work, how unlikely their chances of being hired, or the location of the job.

The present definition fails to account for the tragic reality that a disabled worker in his or her fifties faces a remote chance of finding a new job. Even in good economic times, all unemployed older workers have difficulty finding work. For the older, disabled worker it is a virtual impossibility.

We at the AFL-CIO hear from many such workers who described the financial and emotional anguish they experience in this situation. The disabled are the least equipped of all workers to compete in a depressed labor market.

Eligibility for disabled benefits—recency test

The insured status requirements for social security disability protection are more stringent than for old-age or survivorship protection. The disabled worker must be fully insured and must also meet a test of substantial recent covered work. To meet this recency test a worker disabled at age 31 or later must have at least 20 quarters (5 years) of social security coverage during the period of 40 calendar quarters (10 years) ending with the quarter in which he becomes disabled. (The law provides an alternative test for workers disabled before age 31 in view of the relatively short time that they have been in the work force).

One of the persistent problems in the social security disability provisions has been the effect of the recency test in denying disability benefits to people who were regular workers but whose working ability has diminished gradually because of progressive illness. Such people may experience great difficulty maintaining steady employment, even though they retain the capacity to engage in some type of substantial gainful activity and are not yet disabled within the strict definition of the social security law. By the time their impairments progress to the point of preventing substantial gainful activity altogether, the interruption of their work caused by illness means that some of them can no longer meet the test of recent employment, and so are not eligible for disability benefits.

In addition, it doesn't make much sense for the program to deny an applicant disability benefits who does not meet the recency test but is fully insured with possibly 45 or 50 quarters of coverage, and qualify someone for benefits with a lesser total amount of covered work.

The insured status requirements for disability particularly effect women. Because women frequently have interrupted employment due to child-bearing and child-rearing responsibilities, most do not qualify for disability protection. Only about 40 percent are covered by disability insurance compared to about 90 percent for men.

The elimination of the recency test is long overdue and we urge that it be eliminated as soon as possible.

Disabled widows and widowers

Reduced social security benefits are provided for certain totally disabled widows and widowers aged 50 and over. The widow or widower must have become totally disabled before or within 7 years after the spouse's death.

A disabled widow or widower entitled to benefits at age 50 receives a monthly benefit equal to 50 percent of the deceased spouse's primary insurance amount. Where entitlement begins at a later age, the benefit ranges up to 71½ percent of the primary insurance amount at age 60—the same proportion as it received under present law by the widow who takes actuarially reduced widow's benefits at that age.

The reduced benefit amounts payable under these provisions are in many cases so low as to be of little help to the disabled beneficiary. Also, in many cases the need of the younger disabled widow may be greater than that of the widow between age 50 and 60, since the wage earner who dies at an early age, leaving a younger widow, would have less opportunity to accumulate assets that might provide some resources for the widow. The situation of disabled widows and widowers could be alleviated greatly by providing unreduced benefits for disabled widows and disabled dependent widowers regardless of age. We urge that this be done.

Disabled spouses

Wife's benefits under social security are provided to the wife of an old-age or disability insurance beneficiary without regard to her age for months in which she has a child in her care; otherwise, wife's insurance benefits become payable at age 65, or if she chooses, as that of the retired elderly person. The disabled cannot afford expensive individual health insurance policies even when available to them.

We urge elimination of the 29 month waiting period beneficiaries must meet to be eligible for Medicare coverage. Health expenses during the waiting period often impoverish the typical low income beneficiary. There is no reason to discriminate against the disabled by requiring a waiting period of such length. The waiting period should be no longer than that required for disability cash benefits.

H.R. 3464

H.R. 3464 would remove a number of disincentives which it is felt deter some disabled beneficiaries from seeking employment and would enable some disabled individuals to reduce their dependence on the Supplemental Security Income (SSI) Program. The bill raises the substantial gainful activity limit, liberalizes the disregard for work related expenses and allows beneficiaries to retain disability status for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. In addition to these changes related to work disincentives, the bill contains a number of other desirable features.

H.R. 3464 is a good bill, has widespread support, and should be enacted into law as soon as possible. H.R. 3564 should go on a separate, expedited track toward enactment in order not to be delayed by the controversy surrounding the social security disability amendments. It would be unwise to combine both bills into a single piece of legislation.

Work incentives can make a difference in enabling some disabled workers to return to work and every effort should be made to encourage this objective. But in any economy with a surplus of able-bodied workers, realism warns against expecting very much. The SSI program does not benefit the marginally disabled—an individual must be impaired to an extreme degree. Thus, the primary concern should be for the overwhelming majority who will be unable to work and are unable to live decently on SSI benefits. The goal should be to guarantee these deprived Americans an SSI benefit sufficient to lift them from poverty.

CONCLUSION

We urge the Committee to report favorably H.R. 3464 but to reject provisions of H.R. 3236 that limit maximum disability benefits and reduce the number of drop-out years for future social security disability beneficiaries.

The Social Security Program is, in effect, a social contract between citizens and their government. That doesn't mean that change should never be made, but it does mean they should be made only after careful thought and study and extensive public debate. Above all, such changes must protect the interest of those who contributed to the system and have planned their lives around its guarantees. Because we are convinced that enactment of H.R. 3236 does not protect these fundamental interests, we urge you not to support this legislation.

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON OPPOSITION TO SOCIAL SECURITY DISABILITY CUTBACKS

Nearly every American worker has a personal stake in the Social Security system. Workers have paid their share in the full expectation of an earned right to Social Security protection, but that personal stake and right are now in jeopardy because of proposals to cut back on benefits. Proposed severe restrictions on benefits under the Social Security Disability Insurance Program are now pending in Congress.

These proposals would limit total benefits for future disabled workers with families to 80 percent of their lifetime average indexed monthly earnings or 150 percent of the individual's primary insurance benefit, whichever is lower. They would also lower disability benefits for younger workers by restricting their present right to drop out 5 years of low or no earnings in computing the average wage on which benefits are based.

These proposals should not be adopted.

They would particularly hurt young workers with families, because the limitations would not be applied to earnings at the time of disability but to a worker's lifetime of average indexed monthly earnings. Since the early years of employment are often characterized by very low earnings, especially among minorities and women, the proposals would lower benefits, in some cases drastically, of those who need them most.

Opposition to social security disability cutbacks

If anything, disability benefits should be raised, not lowered. The disabled need more cash income than they earned merely to maintain living standards approaching those prior to disability. For example, disabled workers usually lose valuable fringe benefits provided by their employers, particularly costly health care for themselves and their families. In addition, the disabled can no longer do for themselves many of the things that they were formerly able to do and must hire others to perform these tasks.

The proposals to cut back benefits first appeared several years ago when the number of disabled workers benefitting from the program was growing rapidly. Disability benefits awards have declined from 552,000 in 1976 to 456,000 in 1978, and the growth rate of the program is the lowest since its beginning. The program is on a sound financial basis for the next 50 years as a result of the 1977 Social Security amendments and significantly lower future costs are now being projected.

The AFL-CIO has joined with other groups in Save Our Security (SOS), a coalition of over 100 labor, senior citizens, disability, social action, education, church and citizen groups to vigorously fight against these proposals. Working together, we intend to exert every effort to convince Congress to reject these cutbacks and prevent serious injustices to disable workers and their families.

STATEMENT OF STANLEY BREZENOFF

Mr. Chairman, members of the Finance Committee, I would like to take this opportunity to express New York City's strong support for H.R. 3464.

This legislation would help rectify inequities that now prevent physically disabled persons from fully using their productive work capability. Currently, SSI recipients can earn up to $280 per month without losing their SSI eligibility. While some disabled individuals are able to earn in excess of this figure, the cost of Support Services is so high that many have no alternative but to leave their employment in order to receive SSI and Medicaid benefits. This is contrary to the SSI program goal of promoting self sufficiency.

The legislation would provide increased work incentives by lifting the allowable earnings for a blind or otherwise disabled person with no impairment-related expenses from $280 to some $481. By allowing costs of attendant and other care necessary for employment to be disregarded in determing SSI eligibility in some cases, the legislation would also permit these persons to be employed without facing severe financial penalties.

In addition, H.R. 3464 would remove the present inequity that allows work expenses to be accounted for in the benefit levels of the blind, but not those of the disabled. There is no reason to treat persons with similar needs differently.

New York City is also strongly in favor of extending the "trial work period" from 9 to 24 months and of presumptive SSI eligibility for any disabled or blind person who loses his/her job within a four-year period. Lengthy redetermination processes and accompanying hardships to the blind or disabled will be eliminated by these provisions.

In brief, we believe that the above provisions—as well as the other provisions of H.R. 3464 designed to provide work incentives for the blind and disabled and remove financial penalties for those who can and want to work—are worthy of your support.

STATEMENT OF EDWARD V. ROBERTS

Statement of Edward V. Roberts, Director of the California Department of Rehabilitation regarding S. 591, S. 603, H.R. 3464, and H.R. 3236 the primary mission of the Department of Rehabilitation, of course, is to enable people who are disabled in some way to become active, contributing members of society. The Federal Government's deep commitment to this goal is shown by the fact that approximately 90 percent of my agencies 125 million dollar annual budget comes from Federal funds. I must find it ironic, not to say aggravating, that other Federal programs have inherent barriers which are very effective in preventing persons with disabilities from becoming employed. I urge you to take steps now to remove several of these barriers, needless to say, I also caution you not to create additional such barriers.

Your committee is currently considering several bills (S. 591, S. 603, H.R. 3464) which are designed to reduce many of the work disincentives in Title XVI (The Supplemental Security Income Program) as well as in Title XIX and Title XX programs.

I strongly support immediate action on these bills and would emphasize the importance of assuring that work related expenses including attendant care be disregarded in determining whether an individual is engaging in "substantial gainful activity." I understand that Commissioner Ross supports this provision, your committee is also considering H.R. 3236, which provides some remedies for work barriers in the SSDI (Title II) program. While I clearly support those provisions of H.R. 3236 which eliminate real work barriers, I feel that sections 2 and 3 of the bill litigate against this goal, far from reducing or eliminating work barriers, they actually create new ones, if these sections are not deleted, I cannot support H.R. 3236.

I note that the final report of the Social Security Advisory Committee is due in early November, it seems imprudent to rush to action without utilizing the report in light of the diligent and thorough efforts made by the committee to both accumulate and analyze findings and to make constructive recommendations.

I do not support combining the SSI legislation with H.R. 3236. Therefore I urge you to take immediate action on the SSI legislation and to defer action on H.R. 3236 pending adequate review of the advisory committee report.

POSITION PAPER ON THE POSSIBLE FEDERALIZATION OF THE SOCIAL SECURITY DISABILITY PROGRAM—AN EXPRESSION OF CONCERN BY THE MISSOURI ADJUDICATION ASSOCIATION

The Social Security Disability Program since its inception has been administered by an Agreement between the Social Security Administration and the various States. In recent years, the Social Security Administraiton has become concerned over lack of Administrative control of the Disability function.

Presently, there is before Congress H.R. 3236 which proposes significant changes in the Social Security laws. Most of these changes are excellent and will strengthen the effectiveness of the Social Security program, overall, and particularly the disability portion of the program, such as, work incentives, streamlining of acquisition of medical information, expansion of the reconsideration interview process and tailored denial letters. These should enhance the effectiveness of the program and provide greater service to your constituents.

We are concerned with the contents of Section 8 of H.R. 3236, which states the utilization of the best qualified personnel will be made in case of federal takeover of the State Agency disability determination process. Even though Social Security states the State Agencies may continue to function, we feel the present bill will "de facto", eventually produce the federalization of many State Agencies. There is no definite plan for the utilization of trained and experienced State Agency personnel so that an orderly transition can be implemented to ensure no disruption or delay in the adjudicative process. In the Social Security Subcommittee print entitled "The Disability Adjudication Structure" date January 29, 1979, it was stated: "The Bureau of Disability Insurance in Baltimore, for instance, has relatively few employees with State Agency experience. The State Agencies are the greatest reservoir of talent in the disability program." We agree this is an accurate assessment of the situation and feel that specific provisions should be made to clearly define the "best people" to be utilized in the disability program, if it were to be federalized, and, thereby, continue to provide the best possible service to the disability claimants, your constituents.

In Missouri, we represent the only group (professional and clerical) who performs this function, and have done so since the program's inception. We have a wealth of experience in dealing with disabled and disadvantaged citizens. Our Agency requires a minimum standard of a Master's degree or equivalent for our professional staff. Additionally, our Agency provides ongoing specialized training. We frequently meet the Social Security claimants on a face to face basis, as well as, physicians, health care and social agencies in implementing the current Social Security law. The Missouri DDS prides itself on providing a cost effective service to all citizens. We have made a career of providing this specialized public service and we feel that provisions are needed in H.R. 3236 to ensure the continuance of this service to your constituents.

H.R. 3236 gives absolutely no assurance for an orderly transition from State to Federal control. Should this bill pass, the greatest impact would be felt by constituents who pay into the Disability Insurance Trust Fund because of program disruption and delays in claims adjudication. Consequently, prior to the passage of the bill, there should be included a definite plan for the utilizaiton of the trained and experienced public servants who are presently performing the function of disability adjudication.

As representatives of the employees, the Missouri Disability Adjudicaiton Association takes no position on the passage of H.R. 3236, but we do definitely take the position that with the passing of the bill, provisions should be made to protect the integrity of the Disability functions and the rights of the nearly 200 State employees who form the greatest reservoir of talent, training and experience in the disability program.

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