

## AMENDMENTS TO THE SOCIAL SECURITY PROGRAM

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SEPTEMBER 24 (legislative day, JUNE 12), 1980.—Ordered to be printed

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Mr. LONG, from the Committee on Finance,  
submitted the following

## REPORT

[To accompany H.R. 5295]

The Committee on Finance, to which was referred the bill (H.R. 5295) to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

## I. Summary

*Monthly exception to the retirement test.*—A provision of the Social Security Amendments of 1977 eliminated the previously applicable monthly exception to the social security retirement test. Under the prior law, a social security beneficiary could receive full benefits for any month of the year in which he engaged in little or no work activity even if benefits would otherwise not be payable under the annual retirement test provision. The 1977 amendments deleted this monthly exception other than as it applies in the first year in which an individual becomes entitled to some payment under it. The change made by the 1977 amendments had a number of apparently unintended effects which would be corrected by the committee bill. Specifically, the committee bill would allow the monthly exception in the year in which entitlement ends to child's benefits or to benefits as a wife or widow with a child in care (unless entitlement ends by reason of death or by reason of entitlement to another type of social security benefit). The

committee bill also provides for a separate application to establish medicare eligibility without inadvertently triggering the one "grace year" in which the monthly exception is permitted. Another element of the Committee bill would allow the exclusion from income for retirement test purposes of self-employment income which is not based on services by the beneficiary subsequent to his initial month of entitlement. This would apply after the initial year of entitlement. In addition, the committee bill would allow all beneficiaries to qualify for at least one "grace year" in which the monthly exception applies after 1977 even though they may have used the monthly exception in 1977 or some prior year.

*Reallocation of OASDI taxes.*—The committee bill provides for a reallocation of the 1980 and 1981 collections of the social security cash benefit tax into the two trust funds it supports—the Old-age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund. This reallocation would assure that both funds are in a position to meet benefit obligations through the end of 1981 while further congressional action on the financing of the programs proceeds.

*Three-month retroactivity of applications.*—The committee bill would reduce the maximum retroactivity period of social security benefit applications. Under present law, an application may, in effect, be backdated as much as 12 months prior to the actual month of application. The committee bill would limit this retroactivity to no more than 3 months prior to application.

*Limitation on circumstances under which prisoners may receive benefits.*—Under the committee bill, social security benefits based on disability would not be payable to convicted felons except as specifically provided for by a court of law during their participation in an approved program of rehabilitation which is expected to result in their return to productive employment. In addition, the committee bill provides that an individual may not be considered a full-time student for purposes of student benefits while he is incarcerated. Moreover, any disabling condition arising in the commission of a crime would not be considered in determining whether an individual was under a disability for benefit purposes and any other disabling condition arising while an individual is imprisoned could not qualify him for disability benefits so long as he remains in prison.

*Technical amendments.*—The committee amendment includes a number of amendments of a purely technical nature to the Social Security Act. These amendments correct minor clerical and drafting errors in various amendments enacted in recent years.

## II. General Discussion of the Bill

### MONTHLY EXCEPTION TO APPLY IN THE YEAR ENTITLEMENT ENDS FOR CERTAIN BENEFICIARIES

(Section 1 of the bill)

The principal purpose of the provision of the Social Security Amendments of 1977 to eliminate the monthly measure of the earnings test was to prohibit a social security beneficiary who has substantial earnings after becoming entitled to benefits, i.e. in excess of the annual exempt amount, from using the monthly exception in order to

maximize the amount of the social security benefits he can receive during the year. Although the provision was designed primarily with retirees in mind, it has produced unforeseen results with respect to beneficiaries who are entitled to child's (including student's) benefits, or mother's benefits. These beneficiaries often have substantial earnings in the year in which they enter or reenter the work force. Under present law, they are subject to a strictly annual test in that year. If their earnings are above the exempt amount allowed under the annual test, the benefits they have received in the months prior to going to work may constitute overpayments and have to be repaid, either in part or in full. It has been pointed out that in many cases these beneficiaries cannot anticipate at the beginning of the year whether they will have earnings later in the year, or the amount of such earnings. Requiring repayment in this circumstance thus can cause financial hardship, and can also discourage the individual from going to work.

The committee bill would provide, in the case of an individual receiving wife's or widow's insurance benefits by reason of having a child in her care or in the case of an individual receiving child's or mother's (including father's) insurance benefits, that a monthly measure of excess earnings under the earnings test will be applied in the year in which the individual's entitlement to such benefits ends. As a result, in that year the individual could receive full benefits for any month in which he neither works for wages in excess of the monthly measure (one-twelfth of the annual exempt amount) nor renders substantial services in self-employment, regardless of the amount of annual earnings. It would not apply in cases where the beneficiary's entitlement ended by reason of death or entitlement to another type of social security benefit.

This provision would not prevent a person from using the monthly exception later in the first year he becomes entitled to a social security benefit as a retired worker. The change would be retroactive to January 1978 so that beneficiaries in these categories who lost benefits as a result of the 1977 amendments would have the benefits restored.

#### SEPARATE MEDICARE APPLICATION

(Section 2 of the bill)

Under present law, an individual must file for social security cash benefits in order to be entitled to hospital insurance benefits under medicare. This is the case even though the individual will not be eligible for cash benefits because his earnings are too high. As a result, his "grace year" may be inadvertently triggered by an isolated month of no earnings or low earnings. When he actually retires in some later year, he is not eligible for the monthly test and may therefore be ineligible for cash benefits until the following year.

The committee bill would provide for separate applications for OASI benefits and for hospital insurance benefits in order to reserve the "grace year," the one year in which the beneficiary can use the monthly exception, for the year the person actually retires. The bill would provide that people who have already withdrawn their applications for cash and medicare benefits and repaid the cash and medicare benefits received in order to reserve their "grace year" for another

year would be deemed to have filed an application for medicare benefits as of the date the original application for cash and medicare benefits was filed. The provision of the bill would not impair the authority of the Secretary of HHS with respect to the retroactive payment of medicare benefits in the case of people whose previously withdrawn applications for medicare benefits are reinstated.

Similarly, under this provision, individuals who had been disadvantaged by the 1977 amendments would be able after enactment to withdraw their cash benefits applications without retroactive loss of medicare eligibility.

#### EXCLUSION OF CERTAIN SELF-EMPLOYMENT INCOME

##### (Section 3 of the bill)

The conversion to an annual test for all years except the year of retirement has brought into focus the issue of how certain kinds of earnings from self-employment should be treated for retirement test purposes.

Among those who claim that the conversion has affected them adversely are self-employed insurance agents, lawyers, accountants, real estate agents, and farmers. Under a combined annual-monthly earnings test in effect prior to 1978, a self-employed beneficiary could receive a benefit for any month in which he did not render substantial services in self-employment, even if his annual earnings were substantial. The primary test used to determine whether an individual had engaged in substantial services was whether he worked over 45 hours a month in self-employment. As a result, while the monthly earnings test was in effect, certain self-employed beneficiaries receiving income based on services rendered before retirement could receive 12 months of social security benefits so long as they did not breach the substantial services test.

Self-employed special and general insurance agents who sell insurance policies on which they receive renewal commissions—commissions that may have been planned for use as retirement income—have claimed to be particularly adversely affected. Under applicable tax law, income from the commissions is counted as income for social security and Federal income tax purposes in the year in which the income is received. As long as the monthly test was in effect, the agents could receive 12 months of social security benefits, since the test for self-employed beneficiaries under the substantial services test was 45 hours of work or less per month. With the monthly earnings test repealed, many of these agents lose some or all of their social security benefits when their commission income from sales in previous years is substantial.

Another group of self-employed beneficiaries similarly affected by the 1977 amendment is farmers. Prior law permitted farmers to sell a crop in a year after the year of retirement without having that income result in a loss of social security benefits for any month so long as the farmer did not perform substantial services in self-employment in any month of the year in which the crop was sold. Now that the substantial services test is limited to the year of retirement, income from the sale of a crop raised in the year of retirement or a year prior to retirement can affect a retired farmer's benefits under the annual earnings limitation,

whether or not he performs substantial services in the year of the sale.

Yet another group affected by the repeal of the monthly test are certain retired partners such as lawyers and accountants, and other persons who own or inherit businesses, and receive income from them after entitlement begins, but they too perform no substantial services. Under the monthly earnings test prior to 1978, individuals receiving such payments could also receive full social security benefits for any month in which they did not perform substantial services in self-employment. With elimination of the monthly test the payments from the business result in many cases in reductions or complete withholding of benefits.

The committee bill provides that self-employment income will not be counted for retirement test purposes unless it is based on services performed by the beneficiary after entitlement to social security benefits begins. All self-employment income of this type would be counted in the first year of entitlement, but benefits could be paid in that year inasmuch as the monthly measure would continue to be available in the first year of entitlement year as under present law. This provision would apply not only to old-age beneficiaries but to other categories such as widows. The provision would be made retroactive to January 1, 1978 and benefits would be recomputed for persons who lost benefits as a result of self-employment income of the type which is subject to exclusion under this provision.

#### RETROSPECTIVE EFFECT OF ELIMINATION OF MONTHLY EXCEPTION

(Section 4 of the bill)

The elimination of the monthly test under the 1977 Amendments was effective on a retrospective basis. In other words, it applied to beneficiaries who had received benefits prior to 1978. It did not affect their pre-1978 benefits, but it affected their benefits from 1978 on. As a result, any individual who filed an application for cash benefits and who had one or more months of earnings below the monthly exempt amount before January 1978 is considered to have already used the one "grace year" during which he is entitled to use the monthly test. This has had the effect of reducing or eliminating benefits to individuals who drew benefits prior to 1978, but had not yet actually retired. For example, a beneficiary who used his "grace year" before 1978 may substantially retire in the middle of some later year, but receive no benefits or reduced benefits for the rest of that year because of his earnings in the first 6 months. Retrospective application of the provision caught many beneficiaries unawares and without adequate opportunity to make personal retirement decisions necessary to meet the effects of the change to an annual earnings test.

The committee bill provides for the prospective application of the elimination of the monthly earnings test, that is, all beneficiaries would have the use of the monthly earnings test in at least one year after 1977. As a result, people who lost social security benefits under the retrospective implementation would have their benefits restored.

## REALLOCATION OF OASDI TAXES

(Section 5 of the bill)

The optimum level of reserves in the social security trust funds has generally been considered to be an amount equal to approximately one year's benefit payments. Because of high inflation and other factors, the funds in recent years have fallen far below these optimum levels. Although the 1977 amendments sought to restore somewhat the financial condition of the funds, adverse economic conditions have caused the reserve levels to continue to decline. The old-age and survivors insurance fund in particular has fallen to a level at which cash flow problems are projected to occur sometime in 1981.

The committee bill provides for a reallocation in 1980 and 1981 of the social security cash benefit tax receipts between the two trust funds supported by that tax—the disability fund and the old-age and survivors fund.

The financing of the social security program will require detailed review next year. However, under current estimates, the reallocation provided for in the bill would assure continuing cash flow capability for the cash benefit trust funds through the end of 1981 by reallocating the existing cash benefit tax rate as shown below. (This reallocation would have no impact on the Medicare trust funds.)

## CASH BENEFITS SOCIAL SECURITY TAX RATES—EMPLOYER AND EMPLOYEE, EACH

[In percent]

Year	Present law			Committee amendment		
	OASI	DI	Total tax	OASI	DI	Total tax
1980.....	4.33	0.75	5.08	4.52	0.56	5.08
1981.....	4.525	.825	5.35	4.70	.65	5.35

## CASH BENEFITS SOCIAL SECURITY TAX RATES—SELF-EMPLOYED PERSONS

[In percent]

Year	Present law			Committee amendment		
	OASI	DI	Total tax	OASI	DI	Total tax
1980.....	6.01	1.04	7.05	6.2725	0.7775	7.05
1981.....	6.7625	1.2375	8.00	7.025	.975	8.00

## END-OF-YEAR CASH BENEFIT FUND BALANCES

[As a percent of following year outgo]

Year	Present law			Committee amendment		
	OASI	DI	Com- bined funds	OASI	DI	Com- bined funds
1980 . . . . .	14	43	17	17	19	17
1981 . . . . .	4	58	10	10	11	10

Note: Estimated by Social Security Administration actuaries; based on Administration July mid-session budget review assumptions.

### LIMIT ON RETROACTIVE BENEFITS

(Section 6 of the bill)

Individuals who apply for benefits under the social security program are now effectively allowed to backdate their applications by as much as 1 year to claim benefits for months prior to the actual date of application. In the last Congress, the Administration submitted a recommendation with its fiscal 1979 budget to change this provision so as to limit retroactivity of applications to a period of 3 months. The old-age, survivors, and disability insurance program is intended to provide a source of monthly income for persons whose support in the form of wages of an insured worker is reduced because of that worker's death, disability, or retirement. Ordinarily, individuals who may be eligible for benefits apply for benefits promptly upon becoming eligible or even some months in advance of eligibility. In some instances, however, an individual may not file an application until after eligibility has already existed for some time. A period of retroactivity prior to the month of application is provided to protect against loss of benefits based on delayed filing which may have resulted from circumstances beyond the individual's control.

The committee bill limits the period of potential retroactivity to 3 months. The committee believes that a retroactivity period of 3 months prior to the month of application should provide ample opportunity for individuals to meet the program's filing requirements. The 3-month period would run from the date the application is filed and not from the date on which a decision is made on the claim.

### BENEFITS FOR CERTAIN PRISONERS

(Section 7 of bill)

Individuals who are inmates of penal institutions or other incarcerated persons, such as the criminally insane who are confined to mental institutions, may become entitled to social security benefits if they can meet the several conditions required for benefits. The fact

that they have been convicted of crimes and are incarcerated or are otherwise institutionalized does not interfere with their rights to benefits. This is in contrast to the old public assistance programs of the act (titles I, X, XIV) and the new supplemental security income program (title XVI), all of which explicitly deny payments to an inmate of a "public institution." That exclusion applies to prison inmates and also to other individuals who are residing voluntarily or involuntarily in institutions maintained by public funds.

Two related social security provisions of current law and regulation, however, do authorize the withholding of benefits to persons convicted of certain crimes. One originated as an amendment to the Social Security Act of 1956, which allows a judge, as part of a sentence, to deny payment of social security benefits of any type to an individual convicted of subversive crimes against the U.S. Government (espionage, sabotage, treason, sedition, etc.).

The second provision, provided for by regulation, precludes paying benefits to people convicted of killing a relative, and then claiming benefits based on the earnings record of the person they killed.

The data on the number of incarcerated persons receiving social security benefits is limited. Data from the 1970 census showed that approximately 4,000 prisoners in Federal, State and local penal institutions were receiving some form of social security benefits. A recent rough analysis of Federal prison inmates performed by GAO showed that 224 such inmates out of 17,000 who had known social security numbers were receiving benefits (approximately 1.5 percent). Another 5,000 inmates appeared not to have social security numbers, or their numbers were not known. Based on these data, the actuaries estimate that approximately 6,000 prisoners are now receiving social security benefits.

The committee believes that the basic purposes of the social security program are not served by the unrestricted payment of benefits to individuals who are in prison or whose eligibility arises from the commission of a crime. The disability program exists to provide a continuing source of monthly income to those whose earnings are cut off because they have suffered a severe disability. The need for this continuing source of income is clearly absent in the case of an individual who is being maintained at public expense in prison. The basis for his lack of other income in such circumstances must be considered to be marginally related to his impairment at best.

The committee bill therefore would require the suspension of benefits to any individual who would otherwise be receiving them on the basis of disability while he is imprisoned by reason of a felony conviction. This suspension would apply except to the extent that a court of law specifically provides to the contrary as a part of its approval of a plan of vocational rehabilitation services for that individual, and only for so long as the individual continues to participate satisfactorily in an approved vocational rehabilitation program which is expected to result in his return to substantial gainful employment. The committee amendment would also provide that an individual may not be considered to be a full-time student for purposes of social security student benefits while he is incarcerated. In addition, the amendment provides that disabilities to the extent that they arise from or are aggravated during the commission of a crime may not



be considered in determining whether or not an individual qualifies for social security benefits. Impairments not arising from the commission of a crime but occurring while an individual is in prison could not be considered for purposes of disability eligibility so long as the individual remains in prison.

### TECHNICAL CORRECTIONS

(Section 8 of the bill)

The committee bill includes a number of amendments of a purely technical nature to the Social Security Act. These amendments correct minor clerical and drafting errors in various amendments enacted in recent years.

### III. Regulatory Impact of the Bill

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate the following evaluation is made of the regulatory impact which would be incurred in carrying out the bill.

Those provisions of the bill which relate to the social security retirement test (sections 1-4) represent an easing of legislation enacted in 1977. No significant regulatory, paperwork, or privacy impact is expected. Individuals affected by these provisions may be required to provide some additional information but this would not be substantially different in character or complexity from other information requirements typically involved in establishing benefit eligibility. Inasmuch as these provisions will permit benefit payments which were precluded by the 1977 amendments, the economic impact on affected individuals will be favorable to them.

Section 5 of the bill is an accounting transaction between two social security trust funds which has no impact of a regulatory nature. Section 6 simply reduces an existing law limit on the retroactivity of benefits from 12 months to 3 months prior to the month of application. It should have no impact of a regulatory, paperwork, or privacy nature and should affect only those relatively few applicants who do not file for benefits until some months after they have become eligible for them. Section 7 places limitations on the payment of benefits to prisoners and to persons who become disabled in the commission of criminal actions. Because of the relatively small number of individuals affected, the Committee believes that this provision has no significant regulatory impact. It is estimated that about 6,000 persons are now receiving benefits while in prison. For those affected, there will be some impact on economic status and on privacy (in that the Social Security Administration will be required to determine that they are in prison and that their disabilities arose in the commission of crimes). The committee does not consider these impacts to be inappropriate.

### IV. Vote of the Committee in Reporting the Bill

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the committee to report the bill.

The bill was ordered reported by a voice vote.

## V. Budgetary Impact of the Bill

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and sections 308 and 403 of the Congressional Budget Act, the following statements are made relative to the costs and budgetary impact of the bill.

The bill as reported makes a number of changes in the social security program some of which will increase and others of which will decrease the cost of the program. In net, the bill will reduce outlays in fiscal year 1981 by \$0.1 billion and will thus help to achieve the savings necessary to meet the Finance Committee budget allocations pursuant to the First Concurrent Resolution on the Budget for fiscal year 1981.

The cost estimate of the Congressional Budget Office on this bill is printed below. The committee accepts the CBO estimates.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C., September 19, 1980.*

HON. RUSSELL B. LONG,  
*Chairman, Committee on Finance,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 5295, a bill to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

### CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 5295.
2. Bill title: To amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.
3. Bill status: Ordered reported by the Senate Finance Committee on September 19, 1980.

4. Bill purpose: The primary purposes of this bill are: (1) to correct certain problems caused by the 1977 Social Security Amendments resulting from the provision to eliminate the monthly retirement test; (2) to limit the period for which social security applicants can receive retroactive benefits to three months instead of twelve months; (3) to limit certain social security benefits to prisoners; and (4) to reallocate a portion of the payroll tax rate between the OASI and DI trust funds.

5. Cost estimate:

### ESTIMATED COST TO THE FEDERAL GOVERNMENT

[By fiscal years, in millions of dollars]

	1981	1982	1983	1984	1985
Estimated budget authority.	3	13	30	49	70
Estimated outlays..	-76	-201	-227	-232	-236

The costs of this bill fall in budget function 600.

Estimated budget authority represents added interest on higher trust fund balances resulting from this bill.

6. Basis for estimate: The following sections summarize the expected costs of each major provision. There are also other technical provisions in the bill which have no cost impact. Since this estimate was prepared without a completed copy of the bill, some minor adjustments to these estimates could become necessary.

#### *Monthly earnings test provisions*

The 1977 Social Security Amendments altered the provision of the Social Security Act by which benefits are withheld if an individual has over a certain amount of earnings in a given year. The earnings test was formerly an annual test applied on a monthly basis. The 1977 Amendments eliminated the monthly application of the earnings test except for the first year in which a recipient receives a social security benefit. As a result, certain groups of people receive substantially lower benefits over much of their retirement period, and others receive lower benefits in their first year of retirement or in the year they leave the rolls. This bill provides relief for some of these groups of beneficiaries. A brief section by section description of these provisions follows. CBO accepts the actuaries' cost estimates for these earnings test provisions at this time.

TABLE 1.—ESTIMATED COST TO OASI TRUST FUND RESULTING FROM PROVISIONS OF H.R. 5295 AFFECTING ANNUAL EARNINGS TEST

[By fiscal years, in millions of dollars] <sup>1</sup>

	1981	1982	1983	1984	1985
Provides monthly earnings test in year they leave the rolls for mothers of young children and for students <sup>2</sup> .....	0	47	29	31	34
Separate medicare application..	-4	3	7	10	13
Exclusion of deferred income...	36	14	15	16	17
Allowance of at least 1 full earnings test year .....	58	2	0	0	0
<b>Total cost.</b> .....	<b>90</b>	<b>66</b>	<b>51</b>	<b>57</b>	<b>64</b>

<sup>1</sup> Based on an Oct. 1, 1980 effective date.

<sup>2</sup> Includes administrative savings.

The first section of the bill applicable to the earnings test allows a monthly earnings test to be applied to mothers, children and students for the year in which they leave the benefit rolls. For these groups, under current law, the only year of exemption from the annual earnings test is the year during which benefits were first received.

This provision is retroactive to January 1, 1978, but it is not expected that this provision will affect costs prior to 1982 since it applies to the year benefits are terminated, and it is assumed that overpayments for 1978 and later would not have been recovered until 1982. This bill would eliminate the need to administratively determine who had received these overpayments, and of collecting them, and thus the increase in benefit costs are offset by the savings in these administrative costs. Thus, the first year costs of \$47 million will not occur until fiscal year 1982.

The next section of the bill provides for a separate application for medicare at age 65. This provision protects those who wish to continue working from using their one year exemption from the annual earnings test until they are ready to cease work and retire. There is a savings from this provision in the first year since many of those "retiring" only for medicare purposes do collect one or two months of retirement benefits although still working. This provision, in effect, allows these workers to waive these benefits until they retire. These workers would then collect higher benefits in the future. There is a retroactive feature in this provision.

It is probable that there will be some additional costs to the HI and SMI trust funds as a result of an incentive for some workers to sign up for medicare benefits under this provision who had not done so under current law. These costs are expected to be minimal.

The third section of the bill affecting those with earnings excludes from income, for earnings test purposes, all self-employment income that is the result of services performed in past years. Most of those affected by this provision are retired insurance salesmen and farmers.

Approximately 50,000 people are expected to be affected by this provision, and it will have a first year cost of \$36 million. There is a retroactive clause in this provision.

Finally, this bill makes clear that the 1977 amendment on the earnings test should be applicable only to those who were entitled to benefits for the first time after 1977. This provision would require approximately \$58 million in benefits (mostly retroactive to 1978) to be paid in fiscal year 1981, with only a slight cost in the following year. This cost estimate assumes that the first three provisions discussed above are enacted concurrently. If they are not, the cost of this provision will be higher.

#### *Three month limit on retroactive benefits*

Social Security recipients who do not have an actuarially reduced benefit can currently receive up to twelve months of retroactive benefits by effectively backdating their claim. This provision would limit this retroactive period to no more than three months, and would result in the \$150 million savings in fiscal year 1981, rising to \$280 million in 1985. These savings are shown below :

Fiscal year :	Millions
1981 -----	-\$150
1982 -----	-250
1983 -----	-260
1984 -----	-270
1985 -----	-280

The estimate assumes that this provision will affect benefits at the start of fiscal year 1981. We accept the actuaries' estimates at this time, although it is possible that some of these recipients' behavior patterns will result in their more prompt application for benefits, and thus the savings could be lower. Available evidence, however, does not indicate that this faster application for benefits has occurred in the past when a similar provision went into effect for those who, as a result of applying for a retroactive payment, would have received a permanently reduced benefit.

#### *Limit on prisoner benefits*

This section of the bill would terminate benefit payments for all disabled and student prisoners and their dependents. Preliminary data indicate that there are approximately 3,750 prisoners who could lose benefits. At an estimated average 1981 benefit of \$4,400 (including dependents), there will be \$16 million in savings in 1981. The estimate assumes all of these benefits can be terminated by the start of fiscal year 1981, and that there will be some administrative cost of implementing the provision. These costs are shown below :

Fiscal year :	Millions
1981 -----	-\$16
1982 -----	-17
1983 -----	-18
1984 -----	-19
1985 -----	-20

#### *Realignment of payroll taxes*

In order to maintain timely OASI cash benefit payments through 1981, a portion of the payroll tax allocated to the DI trust fund will be reallocated to the OASI trust fund under a provision of the bill.

Because this realignment is a one-for-one transfer, there will be no cost to the government resulting from this provision.

7. Estimate comparison: Benefit costs for the provisions affecting the annual earnings test are given in an April 15, 1980 memorandum from the Office of the Actuary, Social Security Administration, and are the same as those used above.

8. Previous CBO estimates: Provisions affecting only the annual earnings test were given in an October 18, 1970 CBO cost estimate for H.R. 5295 as reported by the House Ways and Means Committee.

9. Estimate prepared by: Stephen Chaikind (225-7766).

10. Estimate approved by:

JAMES L. BLUM,  
*Assistant Director for Budget Analysis.*

## VI. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic type, existing law in which no change is proposed is printed in roman type):

### SOCIAL SECURITY ACT, AS AMENDED

\* \* \* \* \*

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

#### **Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund**

##### **Section 201.** (a) \* \* \*

(b) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Disability Insurance Trust Fund". The Federal Disability Insurance Trust Fund shall consist of such gifts and bequests as may be made as provided in subsection (i) (1), and of such amounts as may be appropriated to, or deposited in, such fund as provided in this section. There is hereby appropriated to the Federal Disability Insurance Trust Fund for the fiscal year ending June 30, 1957, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) (A)  $\frac{1}{2}$  of 1 per centum of the wages (as defined in section 3121 of the Internal Revenue Code of 1954) paid after December 31, 1956, and before January 1, 1966, and reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, (B) 0.70 of 1 per centum of the wages (as so defined) paid after December 31, 1965, and before January 1, 1968, and so reported, and (C) 0.95 of 1 per centum of the wages (as so defined) paid after December 31, 1967, and before January 1, 1970, and so reported, (D) 1.10 per centum of the wages (as so defined) paid after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.1 per centum of the wages (as so defined) paid after

December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, [(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.65 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported.] *(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,* which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and

(2) (A)  $\frac{3}{8}$  of 1 per centum of the amount of self-employment income (as defined in section 1402 of the Internal Revenue Code of 1954) reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1956, and before January 1, 1966, (B) and 0.525 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1965, and before January 1, 1968, and (C) 0.7125 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1967, and before January 1, 1970, (D) 0.825 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1969, and before January 1, 1973, (E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, [(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable

year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,] (H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985, (L) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

\* \* \* \* \*

## Old-Age and Survivors Insurance Benefit Payments

### Old-Age Insurance Benefits

Sec. 202. (a) \* \* \*

### Child's Insurance Benefits

(d) (1) \* \* \*

(7) For the purposes of this subsection—

(A) A "full-time student" is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations prescribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a "full-time student" if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer. *An individual shall not be considered a "full-time student" for the purpose of this section while that individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense (committed after the date of the enactment of this paragraph) which constituted a felony under applicable law.*

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An



individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An "educational institution" is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (ii) a nonaccredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B)) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

\* \* \* \* \*

#### Widow's Insurance Benefits

(e) (1) \* \* \*

(2) (A) Except as provided in subsection (q), paragraph (8) of this subsection, and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount (as determined after application of the following sentence) of such deceased individual. If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 215(f) (5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which he was receiving (or would upon application have received) for the month prior to the month in which he died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w) the number of increment months shall include any month in the months of the calendar year in which he died, prior to the month in

which he died, which satisfy the conditions in paragraph (2) of such subsection (w).

(B) If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitled to widows' insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living and section 215(f) (5) or (6) were applied, where applicable, [.] and

(ii) 82½ percent of the primary insurance amount of such deceased individual,

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

\* \* \* \* \*

#### Application for Monthly Insurance Benefits

(j)(1) Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed applications therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the [twelfth] *third* month immediately succeeding such month. Any benefit under this title for a month prior to the month in which application is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

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

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occur before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual

shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

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

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

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

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

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

\* \* \* \* \*

## Reduction of Insurance Benefits

### Maximum Benefits

#### Sec. 203. (a)(1) \* \* \*

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

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

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

\* \* \* \* \*

(7) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 215(a) (1) or (4), or section 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a) (1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit[s] base determined under section 230 for the year in which that month occurs.

\* \* \* \* \*

#### Months to Which Earnings Are Charged

(f) For purposes of subsection (b)—

(1) The amount of an individual's excess earnings (as defined in paragraph (3)) shall be charged to months as follows: There shall be charged to the first month of such taxable year an amount of his excess earnings equal to the sum of the payments to which he and all other persons are entitled for such month under section 202 on the basis of his wages and self-employment income (or the total of his excess earnings if such excess earnings are less than such sum), and the balance, if any, of such excess earnings shall be charged to each succeeding month in such year to the extent, in the case of each such month, of the sum of the payments to which such individual and all other persons are entitled for such month under section 202 on the basis of his wages and self-employment income, until the total of such excess has been so charged. Where an individual is entitled to benefits under section 202(a) and other persons are entitled to benefits under section 202(b), (c), or (d) on the basis of the wages and self-employment income of such individual, the excess earnings of such individual for any taxable year shall be charged in accordance with the provisions of this subsection before the excess earnings of such persons for a taxable year are charged to months in such individual's taxable year. Notwithstanding the preceding provisions of this paragraph, but subject to section 202(s), no part of the excess earnings of an individual shall be charged to any month (A) for which such indi-

vidual was not entitled to a benefit under this title, (B) in which such individual was age seventy or over, (C) in which such individual, if a child entitled to child's insurance benefits, has attained the age of 18, (D) for which such individual is entitled to widow's insurance benefits and has not attained age 65 (but only if she became so entitled prior to attaining age 60) or widower's insurance benefits and has not attained age 65 (but only if he became so entitled prior to attaining age 60), [or] (E) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), if such month is in the taxable year in which occurs the first month *after December 1977* that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the applicable exempt amount as determined under paragraph (8), or (F) *in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection) or under section 202(d) or (g), if such month is in a year in which such entitlement ends for a reason other than the death of such individual, and such individual is not entitled to any benefits under this title for the month following the month during which such entitlement under section 202(b), (d), or (g) ended.*

(2) As used in paragraph (1), the term "first month of such taxable year" means the earliest month in such year to which the charging of excess earnings described in such paragraph is not prohibited by the application of clauses (A), (B), (C), (D), [and] (E), and (F) thereof.

(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8), multiplied by the number of months in such year, except that, in determining an individual's excess earnings for the taxable year in which he attains age 70, there shall be excluded any earnings of such individual for the month in which he attains such age and any subsequent month (with any net earnings or net loss from self-employment in such year being prorated in an equitable manner under regulations of the Secretary). The excess earnings as derived under the preceding sentence, if not a multiple of \$1, shall be reduced to the next lower multiple of \$1.

(4) For purposes of clause (E) of paragraph (1)—

(A) An individual will be presumed, with respect to any month, to have been engaged in self-employment in such month until it is shown to the satisfaction of the Secretary that such individual rendered no substantial services in such month with respect to any trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection) his net earnings or net loss from self-employment for any taxable year. The Secretary shall by regulations prescribe the methods and criteria for determining whether or not an individual has rendered substantial services with respect to any trade or business.

(B) An individual will be presumed, with respect to any month, to have rendered services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8) until it is shown to the satisfaction of the Secretary that such individual did not render such services in such month for more than such amount.

(5) (A) An individual's earnings for a taxable year shall be (i) the sum of his wages for services rendered in such year and his net earnings from self-employment for such year, minus (ii) any net loss from self-employment for such year.

(B) For purposes of this section—

(i) an individual's net earnings from self-employment for any taxable year shall be determined as provided in section 211, except that paragraphs (1), (4), and (5) of section 211(c) shall not apply and the gross income shall be computed by excluding the amounts provided by subparagraph (D), and

(ii) an individual's net loss from self-employment for any taxable year is the excess of the deductions (plus his distributive share of loss described in sections 702(a)(9) of the Internal Revenue Code of 1954) taken into account under clause (i) over the gross income (plus his distributive share of income so described) taken into account under clause (i).

(C) For purposes of this subsection, an individual's wages shall be computed without regard to the limitations as to amounts of remuneration specified in subsections (a), (g)(2), (g)(3), (h)(2), and (j) of section 209; and in making such computation services which do not constitute employment as defined in section 210, performed within the United States by the individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings or net loss from self-employment.

[(D) In the case of an individual—

(i) who has attained the age of 65 on or before the last day of the taxable year, and

(ii) who shows to the satisfaction of the Secretary that he is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he attained the age

of 65 and that the property to which the copyright or patent relates was created by his own personal efforts, there shall be excluded from gross income any such royalties.】

(D) *In the case of—*

(i) *an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary that he or she is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or*

(ii) *an individual who has become entitled to insurance benefits under this title, other than benefits under section 223 or benefits payable under section 202(d) by reason of being under a disability, and who shows to the satisfaction of the Secretary that he or she is receiving, in a year after his or her initial year of entitlement to such benefits, any other income not attributable to services performed after the month in which he or she initially became entitled to such benefits, there shall be excluded from gross income any such royalties or other income.*

(6) For purposes of this subsection, wages (determined as provided in paragraph (5)(C)) which, according to reports received by the Secretary, are paid to an individual during a taxable year shall be presumed to have been paid to him for services performed in such year until it is shown to the satisfaction of the Secretary that they were paid for services performed in another taxable year. If such reports with respect to an individual show his wages for a calendar year, such individual's taxable year shall be presumed to be a calendar year for purposes of this subsection until it is shown to the satisfaction of the Secretary that his taxable year is not a calendar year.

(7) Where an individual's excess earnings are charged to a month and the excess earnings so charged are less than the total of the payments (without regard to such charging) to which all persons are entitled under section 202 for such month on the basis of his wages and self-employment income, the difference between such total and the excess so charged to such months shall be paid (if it is otherwise payable under this title) to such individual and other persons in the proportion that the benefit to which each of them is entitled (without regard to such charging, without the application of section 202(k)(3), and prior to the application of section 203(a)) bears to the total of the benefits to which all of them are entitled.

(8)(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of June following a cost-of-living computation quarter, he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C))

with respect to taxable years ending in (or with the close of) the calendar year after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year).

(B) Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be whichever of the following is the larger—

(i) the corresponding exempt amount which is in effect with respect to months in the taxable year in which the determination under subparagraph (A) is made, or

(ii) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subparagraph (A) is made to (II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.

Whenever the Secretary determines that an exempt amount is to be increased in any year under this paragraph, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year of the estimated amount of such increase, indicating the new exempt amount, the actuarial estimates of the effect of the increase, and the actuarial assumptions and methodology used in preparing such estimates.

(C) Notwithstanding the determination of a new exempt amount by the Secretary under subparagraph (A) (and notwithstanding any publication thereof under such subparagraph or any notification thereof under the last sentence of subparagraph (B)), such new exempt amount shall not take effect pursuant thereto if during the calendar year in which such determination is made a law increasing the exempt amount is enacted.

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

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



- (ii) shall be \$375 for each month of any taxable year ending after 1978 and before 1980,
- (iii) shall be \$416.66 $\frac{2}{3}$  for each month of any taxable year ending after 1979 and before 1981,
- (iv) shall be \$458.33 $\frac{1}{3}$  for each month of any taxable year ending after 1980 and before 1982, and
- (v) shall be \$500 for each month of any taxable year ending after 1981 and before 1983.

\* \* \* \* \*

**Quarter and Quarter of Coverage**

**Definitions**

**Sec. 213.** (a) For the purposes of this title—

(1) The term “quarter”, and the term “calendar quarter”, means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(2) (A) The term “quarter[s] of coverage” means—

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

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

\* \* \* \* \*

**Computation of Primary Insurance Amount**

**Sec. 215.** (a) (1) (A) \* \* \*

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

- (A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which occurs the event described in clause (i), (ii), or (iii) of paragraph (3) (A), there occurs a period of at least 12

consecutive months for which he was not entitled to a disability insurance benefit, or

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

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

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

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

\* \* \* \* \*

### Other Definitions

#### Sec. 216. \* \* \*

#### Disability; Period of Disability

(i) (1) Except for purposes of section 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (3), (4), [and (5)] (5), and (6) of section 223(d) shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this title shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision of control over the administration or operation of any hospital.

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## Disability Insurance Benefit Payments

### Disability Insurance Benefits

#### Sec. 223. (a) (1) \* \* \*

#### Filing of Application

(b) An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a) (1)) shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements or 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). An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefor before the end of such month shall be entitled to such benefit for such month if such application is filed before the end of the [12th] *third* month immediately succeeding such month.

#### Definition of Disability

(d) (1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i) (1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 202 (e) or (f)) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, or widower shall not be determined to be under a disability (for purposes of section 202 (e) or (f)) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

(3) For purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed the exempt amount under section 203 (f) (8) which is applicable to individuals described in subparagraph (D) thereof. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 222 (c), be found not to be disabled. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.

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

(6) (A) *Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with the commission of a crime by an individual (committed after the date of the enactment of this paragraph) for which such individual is subsequently convicted, or which is aggravated in connection with such a crime (but only to the extent so aggravated), shall not be considered in determining whether an individual is under a disability.*

(B) *Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with an individual's confinement in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of an offense (committed after the date of the enactment of this paragraph) constituting*

*a felony under applicable law, or which is aggravated in connection with such a confinement (but only to the extent so aggravated), shall not be considered in determining whether such individual is under a disability for purposes of benefits payable for any month during which such individual is so confined.*

#### **Termination of Benefits**

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

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

*(f) (1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section, or under section 202 (d) by reason of being under a disability, to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.*

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

#### **Entitlement to Hospital Insurance Benefits**

##### **Sec. 226.**

(a) Every individual who—

(1) has attained age 65, and

(2) is entitled to monthly insurance benefits under section 202, or would be entitled to those benefits except that he has not filed an application therefor (or application has not been made for a benefit the entitlement to which for any individual is a condition of entitlement therefor) and, in conformity with regulations of the Secretary, files an application for hospital insurance benefits under part A of title XVIII, or is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the condition specified in paragraph (1), beginning with the first month after June 1966 for which he meets the conditions specified in paragraphs (1) and (2).

TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT  
COMPENSATION ADMINISTRATION

Sec. 303. (a) \* \* \*

**[(d)](e)** (1) The State agency charged with the administration of the State law—

(A) shall disclose, upon request and on a reimbursable basis, directly to officers or employees of any State or local child support enforcement agency any wage information contained in the records of such State agency, and

(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of establishing and collecting child support obligations from, and locating, individuals owing such obligations.

For purposes of the preceding sentence, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 454 of this Act which has been approved by the Secretary of Health and Human Services under part D of title IV of this Act.

(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

(3) For purposes of this subsection, the term "State or local child support enforcement agency" means any agency of a State or political subdivision thereof operating pursuant to a plan described in the last sentence of paragraph (1).

### Judicial Review

**Sec. 304.** (a) Whenever the Secretary of Labor—

(1) finds that a State law does not include any provision specified in section 303(a), or

**[(2) makes a finding with respect to a State under subsection (b), (c), or (d), of section 303,]**

*(2) makes a finding with respect to a State under subsection (b), (c), (d), or (e) of section 303,*

such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

\* \* \* \* \*

**Part A—Aid to Families With Dependent Children**

\* \* \* \* \*

**State Plans for Aid and Services to Needy Families With Children**

**Sec. 402. (a) \* \* \***

(27) provide[.] that the State has in effect a plan approved under part D and operate a child support program in conformity with such plan;

\* \* \* \* \*

(29) effective October 1, 1979, provide[d] that wage information available from the Social Security Administration under the provisions of section 411 of this Act, and wage information available (under the provisions of section 3304(a)(16) of the Federal Unemployment Tax Act) from agencies administering State and unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections; except that the State shall not be required to request such information from the Social Security Administration where such information is available from the agency administering the State unemployment compensation laws; and

\* \* \* \* \*

[(d)](e)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, or relating to, such system,

(B) contains a description of the proposed statewide management system, including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such statewide management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

(2) (A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

\* \* \* \* \*

## TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

### Income

#### Meaning of Income

**Sec. 1612.** (a) For purposes of this title, income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 203(f)(5)(C);

(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a) ~~[(10)]~~ (11), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); ~~[(and)]~~

(C) any refund of Federal income taxes made by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and

~~[(C)]~~ (D) remuneration received for services performed in a sheltered workshop or work activities center; and

\* \* \* \* \*

#### Exclusions From Income

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;



(2)(A) the first \$240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) **Monthly** *monthly* (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual**【.】**;

\* \* \* \* \*

## Part B—Procedural and General Provisions

### Payments and Procedures

#### Payment of Benefits

Sec. 1631. (a) (1) \* \* \*

#### Overpayments and Underpayments

(b)**【(1)】**(1) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this title.

(2) In any case in which advance payments for a taxable year made by all employers to an individual under section 3507 of the Internal Revenue Code of 1954 (relating to advance payment of earned income credit) exceed the amount of such individual's earned income credit allowable under section 43 of such Code for such year, so that such individual is liable under section 43(g) of such Code for a tax equal to such excess, the Secretary shall provide for an appropriate adjustment of such individual's benefit amount under this title so as to provide payment to such individual of an amount equal to the amount of such benefits lost by such individual on account of such excess advance payments.

**【(2)】** (3) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1127.

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TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND  
DISABLED

\* \* \* \* \*

**Part A—Hospital Insurance Benefits for the Aged and Disabled**

**Description of Program**

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

\* \* \* \* \*

**Payment to Providers of Services**

**Sec. 1815. (a)** \* \* \*

(c) No payment which may be made to a provider of services under this title for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to any agency agreement under which the compensation to be paid to the agent for his services for [on] *or* in connection with the billing or collection of payments due such provider under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.

\* \* \* \* \*

**Payment of Benefits**

**Sec. 1833. (a)** \* \* \*

(g) In the case of services described in the next to last sentence of section 1861(p), with respect to expenses incurred in any calendar year, no more than \$100 shall be considered as incurred expenses for purposes of subsections (a) and (b).

[(g)] (h) With respect to diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the Secretary is authorized to establish a payment rate which is acceptable to the laboratory and which would be considered the full charge for

such tests. Such negotiated rate shall be limited to an amount not in excess of the total payment that would have been made for the services in the absence of such a rate.

\* \* \* \* \*

**TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS**

\* \* \* \* \*

**Definitions**

**Sec. 1905.** For purposes of this title—

(a) \* \* \*

(c) For purposes of this title the term “intermediate care facility” means an institution which (1) is licensed under State law to provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, (2) meets such standards prescribed by the Secretary as he finds appropriate for the proper provision of such care, (3) meets such standards of safety and sanitation as are established under regulation of the Secretary in addition to those applicable to nursing homes under State law, and (4) meets the requirements of section 1861(j)(14) with respect to protection of patients’ personal funds. The term “intermediate care facility” also includes any skilled nursing facility or hospital which meets the requirements of the preceding sentence. The term “intermediate care facility” also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts, but only with respect to institutional services deemed appropriate by the State. The term “intermediate care facility” also includes any institution which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of clauses (2), (3), and (4) of this subsection and providing the care and services required under clause[s] (1). With respect to services furnished to individuals under age 65, the term “intermediate care facility” shall not include, except as provided in subsection (d), any public institution or distinct part thereof for mental diseases or mental defects.

**TITLE XX—GRANTS TO STATES FOR SERVICES**

\* \* \* \* \*

**Program Reporting**

**Sec. 2003.** (a) \* \* \*

(e) (1) No payment may be made under section 2002 to any State which does not have a plan approved under subsection [(g)] (d).

\* \* \* \* \*