

**SOCIAL SECURITY TAXES FOR
DOMESTIC WORKERS**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

S. 1231

JULY 21, 1993



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1994

73-651—CC

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-043931-0

5361-11

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SOCIAL SECURITY TAXES FOR DOMESTIC WORKERS

WEDNESDAY, JULY 21, 1993

**U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.**

The hearing was convened, pursuant to notice, at 10:06 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan (chairman of the committee) presiding.

Also present: Senators Bradley, Rockefeller, Daschle, Breaux, Packwood, Chafee, and Durenberger.

[The press release announcing the hearing follows:]

[Press Release No. H-27, July 16, 1993]

FINANCE COMMITTEE TO HOLD HEARING ON MOYNIHAN BILL REGARDING SOCIAL SECURITY TAXES FOR DOMESTIC WORKERS

WASHINGTON, DC.—Senator Daniel Patrick Moynihan (D-NY), Chairman of the Senate Committee on Finance, announced today that the Committee will hold a hearing on Social Security coverage and taxes for domestic workers, or the so-called "Zoe Baird issue."

The hearing will begin at 10:00 a.m. on Wednesday, July 21, 1993, in room 215 of the Dirksen Senate Office Building.

In announcing the hearing, Senator Moynihan stated: "It is important that workers who perform domestic services for a living get the Social Security coverage they deserve. It is also important that we make employers aware of their legal obligations in this regard."

The Committee will hear testimony on S. 1231, a bill recently introduced by Senator Moynihan to raise the current wage threshold which determines whether an employer must pay Social Security taxes for a domestic worker. The current thresholds have remained the same since they were first enacted in 1954.

Senator Moynihan's legislation would also replace the current requirements for quarterly filing of such taxes with a simplified annual reporting procedure. This procedure would use IRS form 1040 in order to improve public both awareness of the requirements and compliance with them. In addition, the legislation would exempt from Social Security taxes the wages paid to domestic workers under the age of 18.

"These changes are long overdue, as recent events have shown," Senator Moynihan said. "We will hear from the Administration and other distinguished witnesses, and I hope for a speedy resolution of this troublesome issue."

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM NEW YORK, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. A very good morning to our distinguished witnesses and our guests at this regular hearing of the Committee on Finance on the subject of Social Security taxes for domestic workers.

As we know, this has been a subject of very considerable attention, or shall I say notoriety, in recent months. In particular, spe-

cifically in the context of a new administration coming to office, and for perhaps the first time, the question is being raised to nominees whether they had complied with Social Security laws in the payment of contributions for domestic workers, and the regular quarterly filings that go to unemployment insurance

What we find, and I think my colleague will agree, is that there is a pattern in which no one with responsibility emerges with any great credit. The present wage threshold after which you are required to make these contributions was set in 1951 and has not been changed since that time. At that time, it might have been a considerable amount of money. You would notice it. Inflation turns it into a rather small sum, certainly not an amount you would associate with a regular income.

In the 17 years that I have served on this committee, no one from the Social Security Administration has ever come to us and said we have a problem here of compliance. It appears that only about a quarter of domestic workers who ought to have insurance paid for them are, in fact, being covered.

The administration just did not do what, in proper circumstances, it ought to have done. The oversight committees of the Senate—of which I was the chair for 6 years—the committee did not do what it ought to have done. And the public generally seemed unaware.

When it came, it came as a surprise and clearly a hurtful one to many persons who had no intention whatsoever of not complying with these matters. We know of that. The question is now: How do we proceed to deal with some reordering and reassessing?

Our concern is to have legislation which brings the threshold of what was set in 1951 up to a level that comes to \$610 per month. That may be too low.

We want to propose that it be made a transaction payable annually on a 1040 form, the sort of form that Americans are used to filling out when they pay their taxes. We may even want to consider some retroactive concerns.

We are not a nation of lawbreakers and we do not want inadvertently to make ourselves such. At the same time, I would express—just in closing because we have such distinguished witnesses—there are two things we want to look out for. Paperwork. We are suffocating and choking in paperwork.

Irwin Griswold, the Dean of the Harvard Law School, the Solicitor General, gave a paper recently to a tax group. He's 89 years old. He makes out his own tax returns, has done since he was a young man in the Solicitor General's office. Last year it took him 75 hours. I do not want to suggest what Irwin Griswold's billing fee might be. Imagine the equivalent of 75 hours times—

Senator CHAFEE. That is 2 full weeks.

The CHAIRMAN. Right. And he does it as a matter of principal. I mean, he is one of our oldest citizens. His wife is not well and he has to have nurses; and he describes where you send this form, where you send that form, and this form, and that form. Now we have to stop that. You cannot ask a mother of three children to say, my God, it is March 1, I have to fill out my forms.

The second thing I would want to just set down is a personal concern. We concentrate on adults, adults earning an adult living. We

want to keep babysitters out of this. We want to keep kids who mow the lawn out of it. One of the nice rights of passage in American life is the 12-year-old girl who for the first time is allowed to look after the two babies of the people next door or upstairs who are going to the movie and you get them to bed by 9:00 and we will be back by 10:00. You learn to look after children. You learn to have a little money. You are growing up.

We do not want to get that. Let the Federal Government keep its hands off of that. Those are my simple views and they are very open in every other respect. They are open in that respect.

Senator Packwood?

**OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S.
SENATOR FROM OREGON**

Senator PACKWOOD. Mr. Chairman, I would quarrel with your opening statement only in one respect. It has been, I suppose, 15 years since I have hired any household help.

But I used to fill out the forms and pay the Social Security. I did not find it that complicated. Once you got onto the form, it was relatively easy to understand. Now, I did not have all of the different problems that maybe Mr. Griswold did; and I did not have a dozen other forms for a dozen other deductions for whatever it is I had to do, but just the household help, and the \$50 a quarter I was able to fathom and fill it out rather quickly and it was not that difficult.

I did discover, and I had to be pretty firm about it, there were some people that wanted to do household work and simply be paid in cash and they did not want the form filled out. My hunch is, they were not paying any income taxes. Those I would not hire.

But I agree with you about the babysitters and the neighborhood kid who mows the lawn. It is our desire to cover people who for whatever reason are in the work force, normally in low-paid jobs, and that is their job. That is going to be their job.

And we have no real desire to impose some kind of paperwork hardship or frankly even if it is not a hardship, the covering of the 15- and 16-year-old babysitters and boys who mow the lawn, who by the time they get out of high school or college are going to be in some kind of full-time work and covered by Social Security the rest of their life and they'll usually make their 40 quarters; and what they made mowing the lawn or babysitters will be incidental and irrelevant to their life time occupation anyway.

So I agree with you in what we want to achieve. But I will say in my experience there were a lot of people that wanted to avoid paying this tax, and there were a lot of people that wanted to avoid having it paid on their behalf. It was not all the fault of the person employing the household help. But I will say it was an easy form to understand.

The CHAIRMAN. Well, I would ask you, do you think it possible that you understand these things better than other people do. Here it is, my dear friend, page 1 and 2, and 3, and—

Senator PACKWOOD. Well, it may have gotten igger over the years. As I recall it, it was only a 1-pager, maybe a 2-page form.

The CHAIRMAN. Well, what I like is on page 3 as you begin this 14, 15, 25 pages, the first thing is says, "Paperwork Reduction Act Notice." [Laughter.]

We will not go into that any further. You can look at that. Senator Chafee?

**OPENING STATEMENT OF HON. JOHN H. CHAFEE, A U.S.
SENATOR FROM RHODE ISLAND**

Senator CHAFEE. Well, Mr. Chairman, I am glad we are here looking at this situation. My experience with this is not recent. We did deal with the household help who wanted people to come in and give a hand. We had six children. So we did have a variety of people coming through that house, helping with the laundry or cleaning; a little more than babysitting.

My experience was somewhat like that of Senator Packwood's. I found that once you got through the forms, it is not that complicated. I did not withhold, rather I just went ahead and paid both shares of the tax myself. It was just simpler that way.

Now I will say, I did not withhold—I cannot recall, maybe I did, but I cannot recall withholding income taxes. Were we meant to have done that? Well, maybe Mr. Myers will tell us. I can't remember.

The CHAIRMAN. He shakes his head.

Senator CHAFEE. Okay, so I did not transgress the law. Thank goodness.

The CHAIRMAN. But, Senator, you did not know.

Senator CHAFEE. Well, in all fairness, this was back a few years. I am not suggesting I did know, but I did know that I was meant to pay Social Security on the people helping out and did ask.

But I think we do have a problem here, Mr. Chairman. As you pointed out, for some people this is their occupation. In those instances we need to make sure they receive appropriate Social Security coverage. We need to look at the total picture.

In other words, some might say that \$50 a quarter for a woman that is helping out is too low a threshold, but she may be doing this for six different people.

The CHAIRMAN. Yes. Sure.

Senator CHAFEE. And if she is excluded from Social Security coverage for each of these, she really would fall through the cracks.

But under your proposal it is that you do it on an annual basis. And you could well end up with a situation that you do not anticipate in the early quarters that you are going to exceed whatever the sum is. So you do not withhold.

Then when you get to the end, you find that you have gone over the threshold. For example just take \$1,000 for the year as a figure. Assume that by the end of the third quarter you are at \$900 and you do not anticipate further employment for the remainder of the year. You do not anticipate using this individual's services during the fourth quarter. So you have not withheld; and bang, you go over the threshold, if you end up employing the individual during this period.

Do you end up withholding the full year's tax from the last check?

The CHAIRMAN. Can we not take that as a good question to which our witnesses will respond?

Senator CHAFEE. Yes, okay. All right.

Anyway, I am glad we are looking into this. Like everything in the world, it turns out to be a bit more complicated than on first examination.

The CHAIRMAN. Indeed it does.

Senator Breaux?

**OPENING STATEMENT OF HON. JOHN B. BREUX, A U.S.
SENATOR FROM LOUISIANA**

Senator BREUX. Well, I just thank you, Mr. Chairman, for having the hearing. I think you are suggesting that—lets be realistic—a \$50 per quarter standard was set back in 1954. It was reasonable at that time. But I would suggest that, 40 years later, it is not reasonable.

What we are talking about doing is really trying to take that reasonable standard and update it so that it is reasonable in 1993. I think your suggestion is the proper one and one that I support.

The CHAIRMAN. Thank you, sir.

Senator Durenberger?

**OPENING STATEMENT OF HON. DAVE DURENBERGER, A U.S.
SENATOR FROM MINNESOTA**

Senator DURENBERGER. Mr. Chairman, it is nice to see you.

The CHAIRMAN. You can come to our conferences. We have conferences every day.

Senator DURENBERGER. I understand. It is not the same. Mr. Chairman, as sort of being here dealing with the great issues of the day.

The CHAIRMAN. Those who are not privy to this exchange, we are having a House/Senate conference on taxation and budget deficit reduction, in which not everybody is—

Senator PACKWOOD. Fully participating in.

The CHAIRMAN [continuing]. Fully participating in. [Laughter.]

Senator DURENBERGER. If I may continue?

Senator CHAFEE. And our distinguished Chairman is the chairman of that conference which is very, very nice.

Senator DURENBERGER. I would go anywhere to hear Bob Myers speak or be an expert; and thank all the other people representing the—I know the Older Women's League are here and a lot of other wonderful people that have been so helpful to this committee in the past. I appreciate this opportunity.

I reacted the same way everybody did in the end of January or first part of February to the Zoe Baird case. But I guess I did it because instinctively something told me as it told everybody else around here, it is not so much the Zoe Baird problem, it is the problem on the other side. It is the kids. It is the older people. It is the folks that need to supplement their income, people that need to have some kind of meaningful extra work or the only thing I am going to do, but it is something that I am good at, but I cannot work full-time at it and so forth.

I think it is that that prompted me in early February to put in my bill, which I think is the first bill, and is reflecting what John Breaux just said.

What my bill did was to deal with this problem is simply to take the 1954 \$50, ask the Congressional Budget Office how much that is worth today, presuming that people knew what they were talking about in 1954, and updating that to \$250 a quarter and then putting in an automatic adjuster for inflation.

I suppose 40 years later it is appropriate to ourselves, was that the right policy at the time. I mean, do we want everybody in the social insurance system regardless of from whence they come or what their attachment to the work force is or was that basically good policy then, is it still good policy today, and does it simply need to be adjusted or reality?

I came down then on the side of let us adjust it to reality. Maybe this hearing can tell us even more than that. But that is my preference certainly to the House version, which gives you an entirely different view of what this is all about.

So I would certainly prefer the approach that I had originally suggested, \$250 a quarter.

The CHAIRMAN. Thank you, sir.

If I may just make one last comment, which is that, we are dealing here also with the question of what we call temporary help. Nothing unusual. Probably 20 percent of the work force works on a basis of that kind and we will learn more as we go forward.

But first we have the great privilege of having the Honorable Carrie P. Meek, a Representative from the State of Florida, here to open our hearings. Good morning, Congresswoman Meek.

Would you perhaps use that center seat? And if you wish to bring any of your associates with you, feel free to do so. I believe this is the first occasion you have had to appear before the committee, so we want to give you a special welcome.

STATEMENT OF HON. CARRIE P. MEEK, U.S. REPRESENTATIVE FROM FLORIDA

Representative MEEK. Thank you very much, Mr. Chairman, and members of this committee. It is a privilege for me to be here today and I am happy that I was invited. I think I might bring some new dimension to things you have talked about already in that much of what you have talked about I have experienced through the years.

I was a domestic worker. My sisters were domestic workers. My mother was a domestic worker. So I do have some experience with the kind of thing that you are talking about.

I am pleased to offer my support for the legislation which Senator Moynihan has proposed, S. 1231. It would really simplify the requirements regarding the payment of Social Security taxes for domestic workers.

I want to remind you that there have been some cracks in the system, and Senator Moynihan and this committee are seeking to fill those cracks. Those cracks pretty much affect the kinds of workers that are not really considered many times. Those people who work day work, domestic workers who go out every day, sometimes for a different person, a different employer, that person could work

for five or six different people. They have day work, particularly in my district. They go to Miami Beach and they work for five different families and they also may work every other week for different families.

So those are the kinds of people that I would like to bring into your consciousness today, insofar as how this bill will affect them, and it will affect them positively.

This is an important goal that we cannot allow to become overshadowed by the desire to ease the paperwork burden on employers. I want you to focus on the employees and what may happen to them in the end.

One of the first bills I introduced upon my arrival here in the Congress was H.R. 1114, which set an annual earning threshold of \$300. I recognize the need, as the Senators here have, to change from the \$50 per quarter threshold. But I was concerned that too great an increase would permit too many workers to fall between the cracks.

The figure I chose was consistent with a provision that was included in tax legislation that was vetoed last year. This year, however, the House Ways and Means Committee included in the Reconciliation Bill language which would lift the threshold to \$1,800.

A subsequent attempt to reduce this threshold to \$1,000 failed in committee on a tie vote. I wish I had had the knowledge of Mr. Myers before the House did this. But we know now that your bill is certainly much more positive for the workers.

Your approach, Mr. Chairman, I think is a very reasonable one. The threshold you suggest is a very logical one in that it seeks to restore the linkage between the threshold and the requirement for being credited with a quarter of coverage. But it does not lift the threshold so high as to exclude a vast number of workers, as was done in the House.

In practical terms, it strikes a balance between the House's Reconciliation Bill and the current law, which almost all the Senators here, and everyone else, agree needs to be changed. A threshold of \$610 in 1994 would enable many more domestic workers to be covered by Social Security than would be the case with an \$1,800 threshold.

The Social Security actuary estimated that as many as 300,000 domestic workers a year would lose benefits at the \$1,800 level. This would be about 40 percent of those domestic workers for whom Social Security taxes are now being paid.

Mr. Chairman, these are the working poor people, the very people we so often profess to say are most deserving of our help. These are the women who do the day work, the ones who get the house maid's knee after years and years of working for different families and come up with no benefits.

What would we say to these workers who would lose the coverage? What would happen to them when they are too old to work and too frail? They will not have the IRAs sitting in the bank to help them through their retirement years. They could have been collecting welfare had they chosen that as an option instead of cleaning houses and getting on the bus early every morning before daylight to go to clean houses for different employers.

I begin to wonder if they would have been better off had they gone on welfare instead of doing the day work. Our society claims to place a high value on work. But reducing the participation of so many workers in the Social Security system sends a different message.

We need to encourage better compliance with the law, not provide tax relief for employers. Too much lip service is paid to the needs of the working poor and there is not enough action on their behalf. A worker in this system who works day work and often gets paid to clean houses every 2 weeks for several employees, would have a very hard time reaching a very high threshold. That is why I am very thankful, Senator, that you lowered this.

Such a person, as I said, can work for 10 families and earn \$13,000 annually and still not qualify to have Social Security taxes withheld. \$300 for a year may be too low a threshold; but \$1,800 is definitely too high. That is why I think your bill certainly hits the mark.

I know firsthand, as I repeat in closing, what it means to be a household worker. I know what it means to do day work. It is important work to the families for whom we work. I have neighbors who were domestic workers. When they passed away, there were no benefits left for their families. And when they retired, there were no benefits.

The families that employed them would express much affection and gratitude towards them, much affection. Many times they raised their children. But they did nothing for the employee's future economic security. Domestic workers affected by this proposal are mostly female and mostly minority. They are women who struggle to support their families. Many of them sent their children to college doing day work, by seeing to the needs of their employing family with very low pay.

Senator Moynihan, and members of the committee, they do not have very much political power. If we do not watch out for their interests, who will? S. 1231 would exclude from coverage the proverbial teenage babysitter or the occasional gardener; and that is entirely reasonable and fair.

We do not want to impose unnecessary burdens that discourage compliance. We want to help employees do the right thing. I believe you accomplished this through your annual reporting with the filing of income tax returns.

We cannot, however, let employers off the hook completely when it comes to employees who work regularly doing household chores for others. The interest of the workers, I think, come first.

I commend you, Mr. Chairman, for your efforts and for taking up their cause. Thank you.

The CHAIRMAN. We thank you, Congresswoman.

[The prepared statement of Representative Meek appears in the appendix.]

The CHAIRMAN. We say that the domestic workers do not have much political influence, but I think I would suggest that in the 17th Congressional District of Florida they have a lot of political influence.

Representative MEEK. Thank you.

The CHAIRMAN. Stay a minute. Do not go away. We may have some questions.

Representative MEEK. All right.

The CHAIRMAN. First of all, the point, just so everybody will be clear that the \$50 limit set in 1951 came about as follows. In 1951 Congress acted to cover domestic workers, part-time workers. At that time, \$50 was what a full-time worker needed to get a quarter's coverage. Prices have changed.

So that is how this came about. I see Bob nodding. Back then, we did not intend to address the question of bringing things up over time. Now we have to do it.

If I take it, your point about the House bill is that it sets a level which thinks in terms of what might be your total earnings for the quarter, even though you got them from three or four different employers. If you did not get that much from any one employer, you would never qualify.

Representative MEEK. You would not qualify.

The CHAIRMAN. Even though, in fact, you are a person who work on a daily basis—visiting nurses and secretaries. You know, it is a normal form of employment and we have to adapt to it.

The other point to make, and I think all of our Senators know, our guests may not, the House has put this legislation, very important legislation, in the reconciliation bill. We cannot consider it here under our rules because it affects Title II of the Social Security Act. It would bring down the entire reconciliation bill.

We have to do this. We have to do it with dispatch, but standing alone.

Senator Packwood?

Senator PACKWOOD. No questions, Mr. Chairman.

The CHAIRMAN. Senator Chafee?

Senator CHAFEE. Mr. Chairman, one point I would make here. I think this testimony has been excellent. It seems to me, instead of radical changes in the tax threshold, we ought to make radical changes to the rules covering this area of the law. I cannot believe that it requires 25 pages to explain when you pay Social Security taxes on somebody who is working for you.

Now I know this is it, as you demonstrated, and it talks about FUTA, earned income taxes, and other issues beyond Social Security taxes.

The CHAIRMAN. Yes, you get the FUTA, unemployment.

Senator CHAFEE. This booklet would really cause most housewives and househusbands to have a nervous breakdown looking at this thing. I just cannot believe it is that complicated.

The CHAIRMAN. What do you say we undertake to do both, deal with the amounts and deal with the form.

Senator CHAFEE. I mean, there must be someone who can express the requirements in far fewer terms than this—

The CHAIRMAN. Yes, you are right.

Senator CHAFEE [continuing]. When you pay on a domestic that comes to help out. So the answer is not relieving the paperwork by getting people not paying. It seems to me you relieve the paperwork by cutting the paperwork.

I agree with Ms. Meek that \$300 a year—well, actually, it is \$50 times 4, \$200 a year is too low and you suggested \$300.

Representative MEEK. \$300, yes.

Senator CHAFEE. As you suggest, that is probably low. But I agree with you. I think \$1,800 which is the threshold suggested by the House, is too high.

Thank you.

The CHAIRMAN. Senator Durenberger? These are all just reasonable people with fine judgments, and somebody who is actually going to administer these things might also give us some advice. It would help if there were a Social Security Commissioner, but I have given up hope. [Laughter.]

Senator DURENBERGER. Ms. Meek, would you just—you heard what I said. You know, I took the \$50 and somebody told me \$50 is now worth 5 times that or something.

Senator CHAFEE. That is per quarter she is talking.

Senator DURENBERGER. Per quarter. That is \$1,000 a year.

Representative MEEK. Right.

Senator DURENBERGER. Now that is over 3 times what you were suggesting at \$300.

Representative MEEK. Yes.

Senator DURENBERGER. Could you just tell me why I am too high at \$1,000, and sort of in your own words?

Representative MEEK. Because of the day work problem. The day work problem in having to go to different employers.

The CHAIRMAN. That is the key.

Representative MEEK. That is the key.

The CHAIRMAN. It never adds up to any one person who has to send the money in.

Representative MEEK. Right. It could be 5. It could be 10. Some of them work, say, for a different employer for each of 5 days; and then they may not work for that employer again. They may go every other week for an employer. So it is very difficult.

I think your figure is better than the House's figure. So it would be hard for me to deal with actuarial kinds of things. It is hard for me to discern the proper number for it. I think Mr. Myers would be a better person to do that.

I think my point of view is that many workers are being excluded; and also, it has a negative impact on both the employer as well as the employee. What we really want is compliance. And in order to get it, number one, we have to simplify the forms. And number two, we must have a threshold in such a way that more workers can be included. So I can't very well with any degree of candor deal with the \$1,000 figure.

Senator DURENBERGER. Okay. Thank you.

The CHAIRMAN. Senator Breaux?

Senator BREUX. I just want to thank our distinguished witness. She brings us a great deal of experience.

The CHAIRMAN. She certainly does.

Senator DASCHLE?

Senator DASCHLE. Mr. Chairman, I, too, would like to thank her. I thought her testimony was excellent. She brought real insight to this complicated issue, and we appreciate it very much. Thank you.

The CHAIRMAN. Senator Rockefeller?

Senator ROCKEFELLER. Mr. Chairman, I share those views, not only what I have heard this morning, but what I have heard prior to this about the Congresswoman.

I would also like to say that I think Social Security is very lucky to have you as its steward and I would like very much to be added as a co-sponsor of your legislation.

The CHAIRMAN. That is a great honor. We thank you, sir. I think about half the members of the committee are at this point.

Well, again, thank you on our first opportunity to have you as a witness. We appreciate it so much. We have to do this. We have to do it in this Congress and we look forward to working with you on the other side.

And you will take back, I hope—and if you need any references we will get them for you—just the technical provision of the Budget Act that prohibits any measures that touch Title II of the Social Security Act, as it meant to protect it from being cut, you see.

Representative MEEK. Yes.

The CHAIRMAN. But even though you are not doing that at all, it all comes crashing down. Welcome to the arena of the Budget and Impoundment Act of 1974.

Representative MEEK. And it is good to be over here in this stratosphere.

The CHAIRMAN. Thank you very much.

Representative MEEK. Thank you.

The CHAIRMAN. And now present at the creation, and still with us, to our great joy, the venerable Robert J. Myers, Chief Actuary and all those other good things. We welcome you once again, Bob Myers. Why don't you proceed to educate us on this subject?

STATEMENT OF ROBERT J. MYERS, CHIEF ACTUARY, SOCIAL SECURITY ADMINISTRATION (1947-1970), SILVER SPRING, MD

Mr. MYERS. Thank you, Mr. Chairman. It is always a pleasure to appear before the Senate Committee on Finance. I have not made an exact calculation of it, but I think that I have testified at least 50 times over the years before this distinguished committee.

As the members of this committee well know, one of the basic desirable principles of social insurance, or in other words the Social Security program, is that there should be universal coverage of all employment. This is necessary in order to provide a basic floor of economic security protection for all workers in the country.

On the other hand, there is a contrasting principle that also has considerable weight, namely that the administration of the program should be relatively simple and not expensive. The matter of the coverage of domestic workers under Social Security is, of course, betwixt and between these two principles, and it is a matter that now I would suspect almost everybody in the country is aware of. Whereas, in years gone by, as the distinguished Chairman has said, many people just did not really think about it.

In general, I strongly support the provisions of S. 1231 as introduced by the distinguished Chairman of this committee, and as co-sponsored by many of the other members of the committee. It certainly is a very significant step in the right direction. I have a few slightly different ideas about it. But, in general, I think it is a fine bill.

First, let me give a little information about the coverage threshold for domestic workers which was established in the 1950 Act when domestic workers were first covered beginning in 1951.

A coverage threshold of \$50 of cash wages per quarter was introduced, along with a requirement that there be at least 24 days of employment during the quarter. This 24-day requirement was a very difficult one to administer, and it was dropped in the 1954 Act.

But why was the \$50 selected? First, it was realized that many of the people reporting—household employers—were not as accustomed to paperwork as the ordinary employer in industry and commerce. So a limit was established at \$50 per quarter. Anybody earning less than that was not covered.

This was to eliminate just incidental employment. At that time, generally, it took at least 3 or 4 days of work to reach the \$50. In some areas of the country it might have been even more days. The \$50 requirement was such that the household worker automatically, if covered, received benefit credit, namely a quarter of coverage. So these two elements were closely tied together, and I think for good reason, if there had to be a limit at all.

Now, looking at the various elements in the bill, I think it is a very desirable step forward to have annual reporting, and on a more simplified basis. I certainly agree with Senator Packwood that the present form is not at all complicated to fill in. The instructions are very lengthy. But once you have read them, you do not ever need to read them again. And for most people, it is a simple matter to fill in that form. But it would be even simpler to do this on an annual basis and as provided in S. 1231.

Now the next problem that has to be addressed, should there be changes in the threshold other than just annualizing it to be \$200 per year? I would agree that, in theory, there should not even be any threshold, that all wages ought to be covered, just as are workers in industry and commerce. But as a practical matter, because many homemakers may hire a domestic worker for just 2 or 3 days a year to do spring housecleaning, it does simplify life a lot to have some sort of a threshold.

I think that, in many ways, the \$200 a year threshold would be desirable to produce more coverage. But again, as a practical matter, I think that it has to be at some higher figure.

Now at the other extreme there is the \$1,800 figure, with future indexing, that is provided in H.R. 2264. I believe that this figure is too high. Of course, one cannot say that one figure is right, and all other figures are wrong. But I believe the \$1,800 figure is wrong.

I think that the House Ways and Means Committee rarely makes mistakes, but they made a mistake here of a technical nature. The \$1,800 figure was derived by indexing what \$200 of wages in 1951 was, up to what that figure would be in 1994, considering wage trends.

The technical error involved was—

The CHAIRMAN. I have to just interrupt to tell my colleagues that, since he is not reading word-for-word, that Bob Myers says actually it should be \$1,823. [Laughter.]

Mr. MYERS. I granted them the appropriateness of rounding it to the nearest hundred dollars. But what was done was to take \$200 and index it. The fact of the matter is that, in 1951, \$200 a year was a more restrictive limit than \$50 a quarter. Therefore, a lower figure than \$200 a year would be equivalent to \$50 a quarter.

For example, a person earning, say, \$160 in 1951 in three different quarters could receive three quarters of coverage. Under a \$200 annual limit in 1951, they would have had no coverage.

But at any rate, I think that the \$1,800 is too high, both from the standpoint of the technical projection of it and also from the viewpoint of having adequate coverage of domestic workers.

Accordingly, I think the approach that the Chairman has adopted in S. 1231 of taking the annual threshold as being the figured required for a quarter of coverage has a good precedent. It seems at about the right level. I say that it has a good precedent because it is one quarter of coverage, just as \$50 in 1951 was one quarter of coverage.

Also, there is the question of should coverage be excluded on account of age. In S. 1231, people who are under age 18 in the year are excluded if they perform domestic service, principally, I suppose, in the area of lawn cutting and babysitting.

This has a precedent in that newsboys and newsgirls under age 18 are now excluded, and have been for years. Also, such children who work in their parents' unincorporated business are excluded.

The CHAIRMAN. Would you help me? I do not mean to interrupt. But there is a specific exclusion for newsboys?

Mr. MYERS. Yes, there has been for years. Actually, it says "newsboys." It should say newsboys or newsgirls.

The CHAIRMAN. Okay, that is a loophole we could work on. [Laughter.]

That came out of the newspaper publishers back in the 1940's or something?

Mr. MYERS. As I recall it, it was put in by the 1939 amendments.

The CHAIRMAN. The 1939 amendments.

Mr. MYERS. It is of great antiquity.

Senator CHAFEE. Well, also, it may have stemmed from the question of, are they employees of the distributor or the newspaper publisher. Never mind. I do not want to get into it.

Mr. MYERS. Senator Chafee, there was the problem, are they employees of the newspaper or are they employees of the wholesaler of newspapers? At any rate, it seemed simple enough at the time just to have this exclusion and not get into that area.

Senator CHAFEE. Oh, they're excluded totally?

Mr. MYERS. Yes.

Senator CHAFEE. Oh, I thought they were just excluded from the recipient of the newspaper.

The CHAIRMAN. I can see this committee thinking about what is going to be the reaction back home in Des Moines. But there you are. It is just interesting.

Mr. MYERS. As to the age of exclusion, I think that I would go even higher than the age 18 in the bill. I think that an age 21 exclusion might be more desirable. Actually, any benefit protection that people under age 21 might receive from this type of coverage is relatively negligible, and it seems to me that it would be more

of a nuisance item. I think that age 18 is reasonable. I would slightly prefer age 21.

One point that is not addressed in the bill, and it is a very difficult one, is the question of people who perform domestic work who are—or claim to be—not employees of the domestic employer. Clearly in the case of, say, lawn mowing by a lawn mowing service, the person doing the lawn mowing is either the employee of a company or is self-employed. The same is true for employees of a cleaning service. They are definitely covered under Social Security by the cleaning service and not by the household employer.

But one difficulty that I think exists and that has not been widely mentioned is that many household employers might say, "Well, this domestic worker is really self-employed and, therefore, I will not be liable for the Social Security tax as an employer."

The question of who is an employee and who is not is a difficult one to determine. But I think that in most of these cases where there is just an individual who the household owner says is self-employed, that is just not the case. They really are employees. But it is a very gray area.

Although it makes more paperwork, I would like to see people be required to report any money which they pay to so-called self-employed domestic workers and report that for informational purposes.

The CHAIRMAN. Bob, would you help me? The other members of the committee probably understand this better. I am free to declare myself self-employed, am I not? But if I do, I have to file my own return.

Mr. MYERS. Yes. But you also must really be self-employed. The homeowner does not have the power to tell you how to do the work, and when and where. It is very difficult sometimes to determine who is self-employed and who is an employee. There is this problem elsewhere in industry and commerce that the Internal Revenue Service is trying to sort out, and I think doing a pretty good job of.

But here, it is very difficult if, say, a woman comes to a house and says, "I am really a cleaning service, and I do not want to be covered as an employee. I am really self-employed." Also, there is a problem if the homeowner wants to take that viewpoint and say what is really not the case. I think that there is a sizable gray area where there should be coverage.

Of course, if the person says that they are self-employed, or if the homeowner treats them as self-employed, they should be reporting as self-employed, but I suspect there is a lot of evasion in those cases.

Finally, Mr. Chairman, I would suggest to the committee that some of the other dollar coverage thresholds in the law should be reexamined, such as the threshold for farmworkers, the threshold for self-employed, and so forth as a question of whether these limits set a long time ago are still appropriate.

Personally, I would like to see them stay constant because if the limit stays in constant dollars, as you well recognize, it really is deteriorating so that you get more and more Social Security coverage as time goes by and earnings rise, but the dollar threshold remains

the same. Of course, I am all in favor of more and more Social Security completeness of coverage as is possible administratively.

I think that in many of these cases you can leave the dollar limit alone and have more coverage, but I suggest that this might be re-examined at some time by the committee.

The CHAIRMAN. That is a very powerful suggestion. Again, I do not want to sound wistful, but if we had a Social Security Commissioner, perhaps we could possibly have some views from Baltimore.

Senator Packwood?

Senator PACKWOOD. No, I have no questions, Mr. Chairman. But I want to thank Bob for his presentation.

The CHAIRMAN. It is a wonderful book.

Senator Chafee?

Senator CHAFEE. It would seem to me that as far as the self-employed situation goes, if you are dealing with the cleaning service, the Bucket Brigade, and you make your checks out to the Bucket Brigade, that is clearly an independent contractor.

If you make your checks out to Harriet B. Wilson, it seems to me that is an employee. Now, she may say she is self-employed and I do not know why she would do that, except maybe she would rather be exempted from withholding and problems like that. But it would seem to me that it would be fairly simple to base it on who you make your check out to. Are there flaws to that, Mr. Myers?

Mr. MYERS. Senator Chafee, I think you have analyzed the problem quite correctly. The difficulty is that, when the homeowner makes the checks out or pays cash, the homeowner might say, "I consider this person as self-employed, and the employer and worker do not really have a discussion about it. The employer just gives the employee the money and evades the Social Security tax because she is really an employee. In this case that you have given, I would agree the person is really an employee. But the two persons, by either connivance or ignorance, just ignore the situation and do not consider the person as an employee and do not pay the Social Security tax.

And likewise, the worker does not report the payment as self-employment income. But in the long run, of course, the worker is disadvantaged, by not having the Social Security protection.

Senator CHAFEE. It seems to me the requirement should be levied on the employer. In other words, I think in all this material that is sent out, there should be a stern admonition that they are violating the law and can tangle with the Federal Justice Department if they do not withhold and do this thing properly.

Mr. MYERS. I certainly agree with you in the case of the one-person cleaning service. It is just not a cleaning service if that person is really an employee of the household.

Senator CHAFEE. I also would put in a modest plea, that I frequently do here, I am against indexing.

The CHAIRMAN. So, I believe, is Mr. Myers.

Mr. MYERS. No, Mr. Chairman, I must admit that, in general, I am a strong advocate of indexing.

Senator CHAFEE. I am against indexing not because of the result. But I think indexing insulates people from the horrors of inflation. So I am opposed to all indexing. I think we should revisit this each

time and realize what inflation is doing to our society. But that is just a personal crusade of mine.

The CHAIRMAN. But you have not given up. That is the point. Senator Breaux?

Senator BREAUX. Thank you, Mr. Chairman.

Thank you, Mr. Myers, for once again appearing before our committee. Let me just ask you—I think Senator Chafee may have raised this general concern. Say we have a person who is a domestic cleaning lady who comes in part-time and is paid, say, \$45 a day for that part-time work in-house. And she goes to 5 houses during the week; and each different employer pays her \$45 a day for the partial work that she does helping to maintain a home.

My rough figures indicate that person would be making about \$540 a week; \$2,700 a quarter; and \$10,800 a year, if she worked every day, which obviously is not likely. Under our bill none of the employers would be required to pay her Social Security.

Mr. MYERS. No, Senator, they all would because, next year, she would be paid more than \$610 a year by each of the employers.

Senator BREAUX. She would be paid \$540 a quarter.

Mr. MYERS. But, under S. 1231, it is on an annual basis of getting \$610 of wages per year, not per quarter.

Senator BREAUX. Oh, it is annually?

Mr. MYERS. Yes.

The CHAIRMAN. You pay it on the 1040.

Senator BREAUX. The 1040. So she would be protected and covered?

Mr. MYERS. Yes.

Senator BREAUX. Even though she's making \$45 per day per individual?

Mr. MYERS. Yes. She would easily meet the \$610 test from each employer because it is on an annual basis. I think that it is very desirable that the threshold should be on an annual basis. This really should have been done back in 1977 when employers in industry and commerce changed from a quarterly basis to an annual basis.

Senator BREAUX. So that person, even though she works for five different employers at that rate would be protected?

Mr. MYERS. For all five of them, yes, sir.

The CHAIRMAN. That is precisely the purpose of this.

Senator BREAUX. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Daschle?

Senator DASCHLE. Mr. Chairman, I would like to try to define a little more clearly your understanding of the self-employed, as well. I think it is a murky part of this whole debate.

Do I understand you to say that if a person works for as many as 20 employers throughout a week, 2 or 3 a day, stopping by to do whatever, that that person would still be viewed as the employee of 20 employers?

Mr. MYERS. In some cases, like the case you give, it might be a close call. If they just come and do 2 hours of work and really under no supervision, then they might be considered self-employed.

Now the situation is a lot clearer in the grass cutting area. If you hire a boy or a man or woman to cut your lawn and say, "I will give you \$20 to cut the grass, go do it," that person probably is self-

employed. But if you go out and tell them just how to do it and really supervise them, then they are an employee.

Senator DASCHLE. Well, I think that is really one of the problems, the definition of self-employed. Really, you could define it—I think there has to be much more clarity with regard to how one is defined as self-employed for legal purposes.

Perhaps you could set a threshold of employers. That might be one way to do it. If you actually have 20 clients as opposed to one client, I would think there is a legitimate difference there.

I know of people in South Dakota who work for themselves who have their own store front, and they are a service. They have a neon sign out there. They clearly work for themselves, but they call upon businesses and homes for cleaning purposes. They have no employees in some cases.

It would be hard for me to call them employees of a given business or home under those circumstances. I mean, I am sure they would not, even from a business point of view, want to be called employees. They would want to be viewed as someone you can find in the yellow pages. But I am not sure today that we can say with confidence that those people in all cases would be self-employed, given, as I understand it, your description of how one determines that.

Mr. MYERS. You are quite correct. If somebody sets themselves up as a cleaning service, advertises, has a store front, goes around to quite a number of different people, they clearly are self-employed.

Senator DASCHLE. Well, they are not clearly self-employed, though. You were just saying to Senator Chafee that if that person comes into the home just as an individual, that that individual is considered an employee.

Mr. MYERS. No.

Senator DASCHLE. And I thought that was your answer to Senator Breaux.

Mr. MYERS. No, I did not mean to say that.

Senator DASCHLE. I must have misunderstood.

Mr. MYERS. There is a gray area between a person who goes and sets themselves forth as a business and goes to quite a number of residences, as compared with the other extreme. If they have only one employer, then it is very doubtful they are self-employed.

Senator DASCHLE. Right.

Mr. MYERS. But if they have two or three or four, again, they are probably employees. But at some point they are really a business service just like a window-washing service. They are all self-employed. But it is usually the one-person establishment as it were that, if they try to say that they are self-employed, it is very dubious that they are.

Senator DASCHLE. Well, Mr. Myers, are you suggesting by your answer that there may be some merit to codifying a threshold number in terms of distinguishing a self-employed person from an employee?

Mr. MYERS. It might be good to do that or at least by regulation. I do believe that there is much going on around the country where the household employer says that the worker is really not an employee, even though he or she really is. Such person are self-em-

ployed. If I just hire them for \$50 and tell them to clean the house, and I do not supervise them, they are really employees.

I think that some warnings to this effect, as some of the members of the committee have said, would be desirable in the instructions so that people do not use this as an illegal loophole.

Senator DASCHLE. If you were to suggest a threshold level, would you say three or four? Is that a legitimate delineation between those employed and those self-employed?

Mr. MYERS. It might be even a little higher than that because you do have the case of the domestic worker who goes out 5 days a week to 5 different employers. That person is probably very clearly an employee. But if they have many more than 5 employers as you suggested, then clearly they are a self-employed service.

Senator DASCHLE. Well, it is certainly one of the most confusing aspects of this. I think the threshold question is one that is fairly clear. We understand it, and we appreciate the need for some indexing or, if not indexing at least modernization of the figure. But this question I hope we can address as well.

The CHAIRMAN. Well, I think you are right. It is not for me to impose on others, but Senator Breaux is the chairman of the Subcommittee on Social Security and he might want to do this. Some day we might get a Social Security nominee before the committee. [Laughter.]

We could ask that person. I do not want to hold on. I think you should go ahead with your own plans.

Senator DASCHLE. Mr. Myers has served us well in that capacity this morning.

The CHAIRMAN. He has been chairman. Thank you very much, sir.

Mr. MYERS. Thank you, Mr. Chairman.

The CHAIRMAN. Once again, we are deeply in your debt. Very probably you have appeared before this committee more times than any person in the history of the Finance Committee. Do you know that?

Mr. MYERS. I would be delighted if that were the case.

[The prepared statement of Mr. Myers appears in the appendix.]

The CHAIRMAN. We are now going to have a panel of some old friends and some new friends. Bert Seidman is right there on behalf of the National Council of Senior Citizens; Nancy Duff Campbell, who is co-president of the National Women's Law Center; and Mary Gardiner Jones, who is a member of the board and chair of the Older Women's League.

We follow what is often the random appearances on our witness list. So, Ms. Campbell, you are first. Welcome. All statements will be placed in the record. You may proceed exactly as you wish.

**STATEMENT OF NANCY DUFF CAMPBELL, CO-PRESIDENT,
NATIONAL WOMEN'S LAW CENTER, WASHINGTON, DC**

Ms. CAMPBELL. Thank you, Mr. Chairman. I would like to not read my statement but I would like it to be included in the record as if said and spend my time addressing a couple of issues that have come up already today.

First, let me say that National Women's Law Center strongly supports your bill and believes that it strikes the appropriate bal-

ance—as Mr. Myers has said—in most instances between the need to assure that we protect domestic employees and their Social Security coverage, and the need to simplify the system so that we get more compliance with the law.

We think that the threshold that is set in the bill and the simplification procedures are the way to do this. Obviously, all of this has to be coupled with, as the bill also recognizes, public education, both to employers and to employees about how to comply with the law and what the benefits of the law are, particularly for domestic workers.

I would like to address two points. First, let me start with the point that you left off with with Mr. Myers. That is this whole question of self-employment. In the law's terms it is the distinction between whether someone is an employee or, in this instance, an independent contractor.

There is some history on this in—I think it is the Revenue Act of 1978. I am sorry I did not bring all the details with me, but I would be happy to give them to the committee.

The CHAIRMAN. Will you do?

Ms. CAMPBELL. The Congress, because of confusion between these terms, passed a provision, if my memory serves me right, which would have allowed people to be forgiven for the taxes owed to people that they themselves reasonably believed were independent contractors. So it is a situation somewhat similar to this one.

It was a temporary reprieve, as I recall, because IRS and Congress were supposed to work on some regulations, a statute, something that would clarify the law in this area. I do not remember exactly how long that took. But as I said, I would be happy to give more details.

But after several years they discovered that probably the 20-part common law test that is in the law for determining this is about the best they could do. I should say that this is embodied in regulations and perhaps when someone later today is here from Treasury they could talk about this more coherently than I can.

It is a somewhat complicated test in that you have to look to several factors. But in applying it to domestic workers, I think there have been 139 letter rulings by the Internal Revenue Service and in every one they have found the domestic worker was an employee.

Now, I have not looked at all those letter rulings so I do not know exactly how complicated their situations were. But the point is that in most cases they look to what the measure of control is of the employer over the employee. And even if the employer does not tell you exactly how to mop the floor, the employer does retain that control to tell you how to mop the floor. That has essentially been what they have looked to.

So in response to Mr. Daschle's question, I think that the person who has the store front, a separate business, is really totally under his/her own control and does this as a business, is probably about the only person that has been treated as an independent contractor in this area.

It is murky not so much to IRS, nor do I think to Social Security, but to people who are trying to figure out what to do in their own households. I think probably the answer to this is—and we have

been working some with the IRS and the new Commissioner on this—to get some better explanation of these rules out to both workers and to employees. I think that the simplification provisions in the bill would do this as well.

Let me touch on just one other point because it is one where I am in disagreement with Mr. Myers, which I never like to be, and in partial disagreement with the bill. That is the question of the age exemption in the bill.

We are concerned not so much for the people that I think the bill intends to cover—the occasional lawn mower or teenage babysitter. But there are employees, a 17-year-old mother with a child, for example, who do domestic service as their principal or indeed primary source of income. And to exempt them, regardless of how high their earnings are, we think poses problems.

We are not exactly sure how this should be addressed in a simple way. There are about 2 million employees, by the way, who are 16 and 17 years old in the work force right now. But we think that probably it should be addressed through some kind of dependency notion.

I know that always sounds complicated in and of itself, but you could say that a teenage worker who was a dependent of another taxpayer, perhaps, should be exempted or if she, herself, had dependents she should not be exempted.

And you have to obviously have the employee provide that information to the employer, which might be somewhat complicated. But I think those administrative problems could be worked out. It is really not so much a concern about the intent of your provision, but whether it paints with too broad a brush. I would be happy to take questions later.

The CHAIRMAN. You are very kind and we will be there later.
Mary Gardiner Jones, good morning.

STATEMENT OF MARY GARDINER JONES, MEMBER OF THE BOARD AND PUBLIC POLICY CHAIR, OLDER WOMEN'S LEAGUE, WASHINGTON, DC

Ms. JONES. Thank you, Senator. I represent the Older Women's League. I am on the board and chair of its Public Policy Committee. The Older Women's League is very appreciative to this committee for its work in the field of Social Security, and particularly on this particular bill.

I do not have to tell this committee how important Social Security is to older women. And certainly the people who need it most, as they get older, are the low-income women who work for multiple employers, many of whom do not pay Social Security taxes, unfortunately, which is why we are here today.

I want to point out that domestic workers include not only people who do household work for families, they also include people who take care of disabled people.

The CHAIRMAN. Of course. This is very important. Thank you.

Ms. JONES. Finally, domestic workers also act as homemakers for older, frail, elderly people. So they perform a range of services in our society that are enormously important for persons like the members of OWL who dependent on their services.

It is also important to state that most of the arguments made against this reporting bill and against keeping the threshold as it is or trying to raise it are motivated by the fact that employers simply do not want to pay these taxes. I want to tell you that OWL represents a great many older women who tend to be on the lower income scale and who support this bill very much, who do not believe that they should provide work for people and not pay their Social Security and exploit them.

So I think that those who argue that they cannot afford to pay these taxes should be taken with a grain of salt by this committee.

The CHAIRMAN. Could I just say to our guests, who may not be aware, that OWL is the acronym for the Older Women's League.

Ms. JONES. We trust we live up to that wisdom, Senator.

I would like to respond to I think it was Senator Durenberger's question about the employers who may not know in the beginning of the year whether to withhold because they do not know whether they are going to be paying a particular worker the threshold amount. I think this argues for quarterly reporting.

I realize that this committee is trying to simplify reporting, but a great many people make quarterly installment income tax payments. There is no reason why they cannot at the same time report their quarterly Social Security payments for their domestic workers. This would, I think, resolve some of Senator Durenberger's problem of knowing whether they are going to be paying a particular individual the threshold amount or not. There are some other advantages to quarterly reporting as well.

The other thing I want to point out is that in arguing against any higher threshold, it is important to note that any higher threshold will increase the incentives to avoid this law. We all know how people use temporary workers. The higher that threshold is, the fewer temporary workers they have to hire for the same job in order to avoid the threshold.

At the threshold that this committee has picked in its bill, I think that will not happen. But if you raise that threshold and start getting up to \$1,800, there is a great deal of incentive then to have multiple people do the same job so you do not have to pay Social Security taxes.

The final thing I want to say is, as has been already pointed out before, education is terribly important. I believe that this committee ought to direct the Social Security agency to mount an educational program, both for employers and for employees on the value of Social Security and what it means. Taxpayers should understand that if people do not have sufficient Social Security benefits upon retirement, they will have to apply for SSI which is a means tested program, a program that many find demeaning when they have, in fact, worked full time all their lives.

My full remarks have already been filed with you and I will not, therefore, repeat them here. Thank you, Senator.

The CHAIRMAN. We thank you very much, indeed.

[The prepared statement of Ms. Jones appears in the appendix.]

The CHAIRMAN. Can I just make a statement? Your point is that the highest monthly Federal SSI check is \$422 for an individual and \$97 a week. I think that is a very important connection you made.

Let us hear next from our good friend, Bert Seidman.

STATEMENT OF BERT SEIDMAN, MEMBER OF THE GENERAL BOARD, NATIONAL COUNCIL OF SENIOR CITIZENS, WASHINGTON, DC

Mr. SEIDMAN. Thank you very much, Mr. Chairman, and members of the Senate Committee on Finance. My name is Bert Seidman and I am a member of the General Policy Board and consultant to the National Council of Senior Citizens.

Until my retirement in 1990, I served as Director of the Department of Occupational, Safety, Health and Social Security of the AFL-CIO; and this is the first time I came before this committee on behalf of another organization, the National Council of Senior Citizens.

On behalf of our 5 million members and 4,000 local clubs, I am very happy to present the views of the NCSC today on S. 1231, the Domestic Employment Reform Act of 1993. We are also very appreciative of the efforts of this committee on this very important legislation.

The National Council of Senior Citizens is concerned with all aspects of the Social Security system. But we view the protection which is offered to low-income workers as being particularly important. We are also very much concerned that a large number of those who receive very low benefits are women, many of whom are domestic workers. Anything that can be done to improve the possibilities for higher benefits for those workers will prevent the spread of poverty among the elderly, and particularly among elderly women.

Therefore, we very strongly support raising the Social Security wage threshold and simplifying reporting requirements. We endorse the proposal to allow employers of domestic workers to use a simplified annual reporting procedure by filing their FICA tax payments for their employees on their IRS Form 1040.

The CHAIRMAN. Bert, can I just say I am sorry about that fly. I do not know where that fly came from. [Laughter.]

Mr. SEIDMAN. I am even sorrier, but we will have to just struggle with the fly.

But as I was saying, we are also concerned about the extent of evasion. We have to balance these factors. If we were to keep the quarterly reporting, we might have a higher degree of evasion than with the annual reporting. Therefore, a change to annual reporting might be beneficial to domestic workers.

However, we think that simplification is not enough. Like you, Mr. Chairman, we hope there will soon be a Social Security Commissioner and that that Commissioner will recognize that SSA needs to do a better job in explaining to employers of domestic help their duties and their obligations.

Mr. Chairman, employers and employees who wish to comply with the law are confronting the same problems that Social Security beneficiaries face with generally. At previous hearings the NCSC has brought these problems to your attention—insufficient staffing levels, underfunding of SSA administrative expenses resulting in telephone busy signals, under trained staff and a failure to publish and disseminate materials to the public.

We have received numerous calls in recent months from employers of domestics and other household workers who want to comply with the law but are finding it difficult to obtain the necessary information from SSA. So we hope that in addition to enacting S. 1231 there will also be an effort to move Social Security administrative expenses off budget and restore the staffing cuts which Social Security suffered under the Reagan Administration.

The second issue I would like to address is raising the threshold. NCSC is cautious on this issue. We feel some relaxation of the threshold would be constructive and that it would encourage increased compliance by employers, resulting in improved benefits for future claimants while having a negligible impact on the trust funds.

Increasing the threshold to the equivalent of one-quarter of coverage would be an acceptable level, of course, on an annual basis. And, therefore, we support what is in the bill.

The CHAIRMAN. Please go on.

Mr. SEIDMAN. Well, may I just say that we join with Representative Meek, and my colleagues on this panel who have eloquently testified to the danger that a higher amount would be particularly detrimental to workers with several employers, as is common in domestic employment. So we think it is very important that whatever is done take account of that factor.

We also urge that SSA engage in a public education campaign to inform employers and employees of their rights and responsibilities.

In my testimony I also deal with the question of the minimum age, which has been referred to. We would like to suggest, Mr. Chairman, that the exemption apply to persons under the age of 16 rather than under the age of 18. We note that 16 is the age under which child labor laws offer protection. In that regard, I disagree with my very good friend, Bob Myers.

I think that you ought to be moving in the opposite direction from what he has suggested because people begin to build their future Social Security protection whenever they go to work. In this country there are many, many persons who work at the age of 16 legally and, therefore, we think that that should be the age under which this protection should begin.

We appreciate the opportunity to testify before you and we will be happy to answer any questions that you may have. Thank you very much.

The CHAIRMAN. We thank you, sir.

[The prepared statement of Mr. Seidman appears in the appendix.]

The CHAIRMAN. Mrs. Jones, you were nodding approval there, I believe.

Ms. JONES. Yes. We would support lowering the age to 16. We were sensitive to some of your difficulties to getting any legislation through, so we did not urge it in our testimony. But we believe very much from our experience that young women, especially as Ms. Campbell said, with young babies, do start going to work regularly before the reach 18. We do not believe that it should be a problem to define such regular employment so as to exclude teenage baby sitters and lawn workers.

If it is occasional work the employer is hiring, they probably should not be liable for Social Security taxes. But when they hire somebody regularly every week or every 2 weeks, that is a perfectly easy way of defining what is regular work that we want to cover here. It does not have to be in terms of what the employer's or employee's intent is.

The CHAIRMAN. That is a very thoughtful comment.

Ms. Campbell?

Ms. CAMPBELL. Well, I think I would agree with—

The CHAIRMAN. You do not have to agree with her.

Ms. CAMPBELL. No, that is fine. I think that age 16 makes some more sense, too, and may be simpler than what I was suggesting.

I guess what I do not know is how much the committee has looked at, and I would urge you to do so, is how this will dovetail with Social Security coverage for other young people who are not domestic workers. There is some concern that the person who works at McDonalds occasionally will begin to build a record and the person in domestic work will not. I appreciate the difference between McDonalds as an employer and an individual householder.

But I think that we ought to try to be as consistent as possible.

The CHAIRMAN. Fine. Very thoughtful comments from all three of you.

Senator Packwood?

Senator PACKWOOD. I have no questions, Mr. Chairman.

The CHAIRMAN. Senator Chafee?

Senator CHAFEE. Mr. Chairman, I just want to say that I thought all the presentations were excellent. Ms. Campbell's suggestion about employees 18 and under, a mother of 17 who has dependents, for example, is an excellent one. I had not thought about that. But, again, that adds a certain amount of complexity into the issue as we are trying to drive towards some kind of a simplification.

I must say that I had not known that in the House bill they have an amnesty from paying the tax. That is not an amnesty from the penalty, but rather amnesty from paying anything at all.

Well, I am not in favor of that. As Mr. Seidman mentioned, there are a lot of calls going into Social Security on this subject and that is because of the Zoe Baird situation. People are suddenly realizing, hey, I did not pay and presumably some money must be coming in. So I do not know why in the world we should give these people an amnesty of paying at all. An amnesty from a penalty maybe, but certainly not an amnesty from the tax. Is that what the House bill does?

Ms. CAMPBELL. Yes, Senator Chafee. I did not have time to go into that, but I do cover it in my testimony. Yes, it is a total amnesty.

Senator CHAFEE. In your written statement.

Ms. CAMPBELL. Yes, in my statement. Right. We agree with you and are pleased that that is not in the Senate bill. People are coming forward. They should come forward. IRS already has the authority now administratively to waive penalties in particular circumstances, and that ought to really do the trick for the, you know, truly good faith people.

Senator CHAFEE. Let me take a little quick poll. In this bill it is \$610 a year. Do you all think that is a pretty good figure?

Ms. CAMPBELL. Yes.

Ms. JONES. Yes.

Mr. SEIDMAN. Yes.

Senator CHAFEE. What would you say to \$1,000, just out of curiosity? How would you vote?

Ms. JONES. I do not think you can keep edging it up that way. Every time we edge it up—

Senator CHAFEE. I do not want you to misunderstand me, I am not proposing to edge it up. I am a co-sponsor of the chairman's bill.

Ms. JONES. I understand that. But every time it is edged up, we are losing people who cannot get Social Security.

Senator CHAFEE. Right. Well, then, how about edging down, how about \$500?

Ms. CAMPBELL. I think that the notion that the bill has of tying it to a quarter of coverage is the appropriate one. You should not earn a quarter of coverage and then not have the tax paid so that you can get it.

Senator CHAFEE. I am not sure how this works though. If this is an annual basis as opposed to—

The CHAIRMAN. Yes, but you get credited for the quarter.

Senator CHAFEE. So let us say somebody—you are paying on \$620. You paid the person. And as I understand \$590 is a quarter; is that right?

The CHAIRMAN. Yes, next year it will be \$610.

Senator CHAFEE. Okay. All right. So that is the result of indexing which we heartily disapprove of. So then that is considered coverage for a quarter, even though you pay annually? I see somebody knowledgeable shaking his head.

Ms. CAMPBELL. Yes. A quarter is a little difficult to understand. I think that is part of the problem, that Social Security is based on earning quarters of coverage. You should not think of that as like a quarter of the year.

Senator CHAFEE. Oh, I see. So you take an annual amount and you say that is a quarter. That is a quarter's coverage.

Ms. CAMPBELL. And you can earn up to four in one particular year.

Senator CHAFEE. Okay. Well, I think the testimony has been helpful. Again, your concern about the mother who is 17 for whom this is her only employment, I think we need to carefully consider how we impact her coverage.

The CHAIRMAN. That is right.

Senator CHAFEE. You know, you heard Mr. Myers who usually is for inclusivity saying 21, which is unusual. Thank you.

The CHAIRMAN. I see poor Bert Seidman of the AFL fought all those years against child labor.

Mr. SEIDMAN. We are still fighting against child labor, Mr. Chairman.

The CHAIRMAN. And we are trying to find jobs for them.

This has been very helpful and we appreciate it so much. We will continue to consult with you. It is clear we have a bi-partisan disposition here and we will want to work with you as we draft our final bill, which we will not be doing until September. But thank you each and all, and your staff, for coming. That was helpful.

Now, to conclude our morning we have two representatives of the administration. We are very happy to welcome Dr. David Ellwood, who is the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services and Mr. Randolph Hurst Hardock, who is the Acting Benefits Tax Counsel of the Office of the Assistant Secretary of the Treasury for Tax Policy.

Dr. Ellwood, you are first. You have only just been able to arrive. I feel I should tell you that we have had more than one occasion to regret that there is no Social Security Commissioner. Not that we welcome you any the less, but it is a scandal. The position will have been empty for a year, 1 year.

I mean, it is not your doing and I do not ask you to comment. But will you go back and say you have received word that it is now, we are 2 weeks from the August recess, and there is no time for a full committee hearing. We are dealing entirely with budget reconciliation. And we have not received a nomination and it is a disgrace. Would you have the goodness to transfer that to the Secretary, the view of the Chairman, that it is disgraceful that this has not been done.

It indicates a lack of concern. I mean, it does not matter what you say, clearly, Social Security does not matter very much to this administration. I do not know what does matter, but maybe you will tell us now.

Good morning, Dr. Ellwood.

STATEMENT OF DAVID T. ELLWOOD, PH.D., ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC

Dr. ELLWOOD. Good morning. And, Senator, I will convey your concerns in the strongest possible terms.

I do want to commend you for convening this hearing because it is a subject, as you know, of just enormous importance to millions of Americans, especially those men and women who are employed as domestic workers and whose lives and futures are very much affected by what we are doing here.

I very much appreciate the opportunity to testify here this morning. I do have comprehensive testimony that discusses the history of Social Security coverage as well as some of the contemporary issues. For the sake of brevity, I would like to submit this testimony for the record.

The CHAIRMAN. Sure. Go ahead just as you wish.

Dr. ELLWOOD. And use my time just to summarize the main points.

[The prepared statement of Dr. Ellwood appears in the appendix.]

Dr. ELLWOOD. We certainly learned many things in recent months and one of them is that the matter of providing Social Security coverage for domestic employees is to many Americans, to say the least, confusing and frustrating.

There are a number of reasons why employers do not report the earnings of their domestic employees. I think some of it is that people genuinely are unaware. It is especially true of someone who uses the occasional services of a babysitter or a lawn mower or whatever.

Others that find the forms incredibly intimidating, and confusing, overly burdensome and so they just do not bother to try. There are obviously those, also, who consciously avoid paying the taxes. And there is also the flip side, domestic workers who request that no money be withheld because they need every penny for living expenses.

But regardless of the reasons, as you know as well as anyone, there are some very tragic consequences that can occur when domestic workers do not qualify for Social Security. If you suffer a disability and you do not have the necessary wage credits, obviously, there is no way to get disability coverage. Similarly, if you die, your family is not protected by the Social Security death benefits.

And finally, when you come to retirement age, if you are not a part of the Social Security system, you do not qualify for Social Security benefits that are designed to help protect you in those elderly years when you are not going to be working.

Of course, it does not just hurt the individual domestic workers. It also hurts the government and the taxpayer because the money was never paid in, because the trust fund does not have the resources, and because people who do not qualify for Social Security benefits often qualify for other programs like SSI, Medicaid, food stamps, and the like. So we all end up paying. But the person that suffers the most, obviously, is that individual workers.

Now the current remedies for the individual are limited. What the Social Security Administration tries to do when someone comes and applies for benefits but has no earnings record or an incomplete one is, we try to reconstruct it as best we can. Our claims representatives work very hard. But it is time-consuming, it is labor intensive, and by its very nature it is not very successful much of the time.

There is just no substitute for timely compliance. The question is, how to bring a higher level of compliance. I think this actually brings us to another issue, which I know you championed, Mr. Chairman, the personal earnings and benefits estimate.

Because I think one of the things that would happen as we move towards providing that to all 126 million workers over the age of 25 is, it would let people know (a) when they did not have something reported; and (b) it would give them a sense of what they are missing out on, what they are losing, how little coverage they have as a result of their situation.

The CHAIRMAN. May I just interrupt right there to say thank you.

Dr. ELLWOOD. Sure.

The CHAIRMAN. You know, the information gets passed around. I am a domestic worker and I am being covered and I get an annual statement. And you are my friend, and you are not being covered, and you do not get your annual statement. You know, the word.

Dr. ELLWOOD. Right.

The CHAIRMAN. Thank you.

Dr. ELLWOOD. Again, a comment. I think the notion that we ought to be providing information to people so that they understand what is out there and what is available is a cause that you

have championed and it seems to me it is part of government doing right by the people.

In addition, of course, Mr. Chairman, you asked about the administration's views on bill S. 1231, the legislative changes regarding the rules for Social Security coverage and wage reporting for domestic employees.

Let me tell you that we are very positively inclined towards the legislation. We fully endorse the provision that would simplify wage reporting, by making the employer's Federal income tax return the instrument by which—

Senator PACKWOOD. Let me just ask you a question.

Dr. ELLWOOD. Sure.

Senator PACKWOOD. Do you prefer the Chairman's bill over the House bill, speaking from the administration's standpoint?

Dr. ELLWOOD. I would prefer to speak on specific subparts of it as opposed to one over the other. The collection through the tax return at the end of the year, in the chairman's bill, is absolutely central to what we are trying to do. It is obviously going to make compliance less confusing. It is also, I would argue, going to make it harder to fail to comply.

Senator PACKWOOD. Well, maybe Mr. Hardock is going to make some further suggestions. But we are not going to have any partisan split on this. It will be helpful if we know specifically where the administration likes the House bill as opposed to the Chairman's bill. I think it would be helpful to us if we would know.

The CHAIRMAN. Yes, because we are trying to get a bill that will become a law. And it will not be a partisan measure.

Dr. ELLWOOD. Let me just say two other things. We also believe that the \$50 per quarter threshold is too low. But we also think that the \$1,800 that has been talked about in the House is too high. We think anything above \$1,000 just simply will not protect domestic workers who desperately need the Social Security coverage.

We also believe that going to an annual figure, rather than a quarterly figure, makes sense given that we are going to an annual report.

We also understand the logic behind the \$610. There is no magic number here. We can talk about it. But the bottom line is, we think anything over \$1,000 is very hard to justify.

So beyond that, let me just simply again thank you, Mr. Chairman, and we can talk about the specifics and I am happy to answer questions.

The CHAIRMAN. Sure. Thank you, Dr. Ellwood.

We will hear next from Mr. Hardock and then we will hear from all of you.

Good morning, sir. Is this your first time before the committee?

Mr. Hardock. Actually, my second.

The CHAIRMAN. It is your second. I thought so. You are nonetheless welcome.

STATEMENT OF RANDOLF HURST HARDOCK, ACTING BENEFITS TAX COUNSEL, OFFICE OF THE ASSISTANT SECRETARY FOR TAX POLICY, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. HARDOCK. Mr. Chairman, members of the committee, I am pleased to be here today to present the views of the Department of the Treasury on the proposed changes to Federal employment tax rules for household employees.

The Treasury Department believes that significant simplification can be achieved in this area in a manner that both reduces the administrative burden for taxpayers and preserves the important policy of providing Social Security coverage for household employees.

As described in more detail in my written statement, the Department supports S. 1231. Mr. Chairman, your bill would dramatically simplify the current law requirements for filing and payment of employment taxes on household employees.

We believe the bill would be a significant step toward improving compliance among household employers and expanding Social Security coverage for household employees. For background purposes, and I know you have heard some of this today, let me briefly describe the tax filing and payment requirements that apply under current law.

Household employers who pay cash wages of over \$50 per quarter must pay Social Security taxes on wages paid to the household employee. Social Security taxes are paid each quarter on Form 942. Household employers who pay cash wages of \$1,000 or more in the current year or the preceding year are subject to Federal unemployment taxes and must file an annual Federal unemployment tax return on Form 940 or Form 940EZ.

The States also require the filing and payment of State unemployment taxes—generally on a quarterly basis.

A household employer also must provide household employees with a wage and tax statement on Form W-2 no later than January 31 of each calendar year. Copies of Form W-2 must also be filed with the Social Security Administration by February 28.

The Department strongly supports the provisions in the Chairman's bill that would facilitate annual filing and payment of all employment and income taxes for household employees. The simplification that would be achieved would significantly reduce the filing burden on household employers.

As indicated in the chart attached to my written testimony, household employers potentially could reduce their obligations from 11 different State and Federal tax filing forms down to two—their own Federal income tax return, and a wage and income tax statement provided to the employee and the Social Security Administration.

The CHAIRMAN. If I may say, in this very impressive statement, it is not just 11 forms, it is 11 different dates.

Mr. HARDOCK. Yes. And as Senator Packwood pointed out earlier, perhaps for the more sophisticated, once you understand the forms, it may not be that complicated. But it is still 11 times a year when a taxpayer has to sit down, fill out a form, fill out a check, and send it in to the IRS, and that is time-consuming even on a simple form.

In the aggregate, this change would eliminate the need for an estimated 1.4 million quarterly Forms 942 that are filed each year by household employers. It would also potentially reduce the number of filings of State unemployment forms.

In addition to the simplification of reporting and payment of employment taxes that would be achieved by the bill, the Department also believes that these changes could have positive compliance effects. Including these amounts on annual income tax returns will increase household employer's awareness of their employment tax obligations and remove compliance barriers by eliminating the complications of quarterly reporting and payment.

I would emphasize, Mr. Chairman, that increased compliance means increased Social Security coverage for household employees.

The Department strongly agrees with the position in the Chairman's bill that is appropriate to increase the wage threshold that triggers employment tax obligations for household employees. Under the Chairman's bill, the wage threshold is raised to the dollar amount needed to earn one quarter of Social Security coverage. For 1994, as has been indicated, that amount is \$610.

Although the Department would not oppose a wage threshold that is explicitly tied to the Social Security coverage amounts, the Department believes that greater simplification could be achieved by adopting a somewhat higher threshold that is an even dollar figure.

We believe that an even \$1,000 threshold would provide significant administrative advantages because it is easier for taxpayers to remember and to calculate from year-to-year. On the other hand, the Department does not favor a threshold above the \$1,000 per year amount. We believe that an increase above \$1,000 would result in an unacceptable loss of Social Security coverage for household employees.

In addition, the Department believes that while indexing is necessary to avoid an outdated wage threshold in the future, it is preferable to index the threshold by even dollar amounts and to reduce the frequency of the changes in the threshold from year-to-year.

The CHAIRMAN. Yes.

Mr. HARDOCK. For these reasons, we suggest an indexing method that would raise the threshold in even dollar amounts, such as \$200 or \$500 increments.

The Department believes that this type of procedure would retain the benefits of indexing, but also help to reduce taxpayer's confusion.

That concludes my formal statement. I would be glad to answer questions.

The CHAIRMAN. I like that last. We could build in a pattern that says it is \$1,000. At a certain point if it gets to be \$1250, it clicks in, but not until. Then you go to \$1500.

Mr. HARDOCK. I would point out, Mr. Chairman, that this committee adopted that type of approach in the budget reconciliation bill with respect to a pension change that was made to make it go up in that case in \$10,000 increments on a \$150,000 amount.

The CHAIRMAN. Give us a note on that will you?

Mr. HARDOCK. Certainly.

[The prepared statement of Mr. Hardock appears in the appendix.]

The CHAIRMAN. Senator Bradley has joined us. I was saying earlier, there's a Dean, Irwin Griswold, a long-time employee of the Solicitor General, who joined the Office of Solicitor General in 1931 and became a Tax Counsel there because he did not know anything about it. He said I thought of going to the Solicitor General and telling him I did not know anything about taxes, but I decided instead to go to the library. But they did not teach tax law. There was no tax law. But he makes out his own returns. He has done that now for 60 years.

Last year it took him 75 hours. Mrs. Griswold is not well and there's someone to look after her. But, you know, that is just for one domestic servant. You would save 1.4 million quarterly forms——

Senator PACKWOOD. He did not mean 75 hours for just his household help.

The CHAIRMAN. No, his whole return.

Senator PACKWOOD. Yes.

The CHAIRMAN. But 75 hours rather than——

Senator PACKWOOD. I was going to say he must have a retinue rather than a housekeeper.

Senator BRADLEY. Different people working in different jobs at different times, different salaries.

The CHAIRMAN. And different places. One goes to Colorado, the other goes to New Hampshire. I am going to put it in the record. You are all going to have a copy of this. It is wonderful.

He says, and, Mr. Hardock, take this back, he says the United States Tax Code has become monstrous and he is not a man given to exaggeration.

My point here is just to say, the Social Security Administration, somewhere back there, I do not know where, stopped telling people things they needed to know. I mean, we have been in this committee for 10 years trying to get them to send out an annual statement. They do not want to do it; and they will not if they can possibly help it. It is none of your business. We will tell you.

Senator PACKWOOD. They probably would have better luck if they had a full-time Commissioner, Mr. Chairman. [Laughter.]

The CHAIRMAN. All right, the Chair rules a part-time Commissioner would do something. I mean, once a week, just 1 day a week the Commissioner came in and sort of cleaned up a bit.

Senator Bradley?

Senator BRADLEY. Thank you very much, Mr. Chairman. Let me apologize that I was not here earlier to hear the earlier witnesses. Just from reading the testimony that they have offered, one of the witnesses was Robert Myers, who made a very interesting presentation.

In terms of drawing a distinction between this bill and the House bill, he talks about the apparent logic of the House bill being an indexation of the \$50 to \$1,800. He says actually \$1,823.

Then he says, "The flaw in this 'logic' is that earnings of \$50 a quarter in 1951 was, in general, a less strict requirement than one involving \$200 a year. In some instances, the reserve was so, while in other instances, they would have both produced the same result,

but in the aggregate, I believe that the foregoing conclusion was the case."

Could you explain that more clearly?

Mr. HARDOCK. Senator Durenberger actually asked a question related to this. It relates to taking the \$50 a quarter, converting it to \$200 annually. Then as Mr. Myers points out, if you index that forward to today from 1951 you get to \$1,832, which is essentially the basis of the House bill.

I think his main point is that \$50 a quarter is a different test from \$200 a year and that it does not necessarily make sense just to take the \$200 a year and index that forward to today.

Another point that Senator Durenberger made earlier was that this is a different world than 1951 and it does not necessarily make sense to take a decision that was made in 1951 and index it forward. It makes more sense, as the Chairman has done, to look at the world as it exists today and set an appropriate level based on characteristics of today's work force.

The CHAIRMAN. He also was very open, if I can say, Senator Bradley. This will cover more persons and he would like to see more persons covered.

Dr. ELLWOOD. I think I would just endorse that as well, Senator. It just seems to me that the right question is whether it is logical now, not whether it was logical back then and simply index it for wages or inflation.

The reality is a lot of domestic employers work for 5, 6, 7, even 10 different employers. Five employers at roughly \$2,000 a year means it is \$10,000 a year. Such a person might get no coverage. It seems that that is drawing the line too high. There is too much risk that people who work for multiple employers will not get this very critical benefit.

Senator BRADLEY. So what is your rationale for \$1,000?

Mr. Hardock. Well, \$50 is too low and \$1,000 is something that the taxpayer will understand. There are two things going on here. You have some people losing quarters of coverage if you raise it anywhere above \$50, potentially. But you also have increased compliance, resulting from the simplification of the rules, from the movement of the filing to the Form 1040, and from the simplification of explanation to the employers, who in many cases are not sophisticated taxpayers. They are not businesses. They are people who bring someone in to do some household work, obviously.

And \$1,000 is an easy number to understand. We would suggest indexing that in fairly large increments, so it stays there for a period of time and so people understand it. That has the effect, essentially, over a period of years, of being a little below \$1,000 because it is not indexed for a number of years.

But once again, I think the key is that it be simple for people to understand.

Senator BRADLEY. It will be an annual amount of \$1,000.

Mr. HARDOCK. Right.

Dr. ELLWOOD. There is no magic number. It seems to me the lower threshold is probably, as the Senator's bill puts it, equal to what you need for a quarter of coverage because if someone earns less than that, they would not qualify for a quarter of coverage anyway.

But I think that is a natural starting point and I think you do not want to go a whole lot higher than that. But there is some logic about simplification and not getting the babysitters. And, of course, to interact somewhat what you are doing with teenagers and the like as well.

So I do not think there is a magic number and I think that is the kind of thing that you have to help decide.

Senator BRADLEY. Thank you very much.

The CHAIRMAN. We learned earlier on that there is a specific provision in the Tax Code from 1939 that excludes paperboys. I can imagine how that came about.

Could I just thank the Treasury for thinking in terms of—what is a number you can remember? Keep in your head all the kids. You have 4 children. They are age 2, 3, 4, and 5. And life is swirling all around you and your husband is going to have a new job in another place, and you are trying to keep track of things. There is just so much you can ask of somebody.

This is a form of employment, perfectly logical. We call it temporary employment. It is a perfectly efficient mode of working 5 different places, 5 different days, but make it possible to cover people with social insurance.

If an annual statement were going out, people would know, yes, you are supposed to have that recorded. Did you not get yours recorded? Has anybody got any idea? I have read in the press, and I guess I will ask you, Dr. Ellwood, or Mr. Hardock, what proportion of domestic workers are now having Social Security payments made for them? I have heard it as low as 25 percent.

Dr. ELLWOOD. There is no good way to have an ideal number. We think around 25 percent is quite plausible.

Mr. HARDOCK. We think that 25 percent may actually be high.

The CHAIRMAN. It might be high.

Mr. HARDOCK. It is hard to know what is not reported.

The CHAIRMAN. We are not doing our job; and you are not disagreeing.

Senator Packwood?

Senator PACKWOOD. Joint Tax has no estimate. Do you have any, Randy, any estimate on this?

Mr. HARDOCK. On the revenue impact?

Senator PACKWOOD. Yes.

Mr. HARDOCK. It is a negligible amount. We do not have an estimate of all of the aspects of the Chairman's proposal. A number in the 600 range raises a very small amount of money over the window.

The CHAIRMAN. Well, we raise a little money.

Mr. HARDOCK. You raise a little.

The CHAIRMAN. If you got to 90 percent compliance, you would raise money.

Mr. HARDOCK. And you would expand coverage.

The CHAIRMAN. And you would expand coverage. It is something we should do. I hope, if I can ask my former Chairman, depending on how we do with this tax bill the prospects may improve, I think we have the makings of a bi-partisan measure here.

Senator Bradley might want to know that Senators Dole, Chafee, Boren, Wallop, Grassley, Breaux, and Rockefeller all co-sponsor it. We could act in September, do you not think?

Senator PACKWOOD. If we cannot act on this, Mr. Chairman, it is worse than gridlock. It is worse than paralysis. Something has gone wrong. You have no partisan division. I think the administration is with us. If we cannot solve this one, we cannot solve anything.

The CHAIRMAN. Right. I think we probably cannot do it in the next ten days. Well, if we have a full meeting, if the circumstance comes in which we are going to have a full meeting, I will bring this to us all and report it out.

We have a little bit of a question. It is a revenue measure and we have to have a bill from the House. I think we are going to get one. But in any event, this should be done.

We thank all of our witnesses. We thank you, Dr. Ellwood and Mr. Hardock. It is pretty clear where we ought to go. May I just say, when you go back, take special thanks for thinking of round numbers. And if you think you have had trouble making out your 19 forms for a domestic worker, how would you like to figure out your earned income tax credit. You take 17.23 percent of \$1412.18 and then you divide by 700 times—you know. No decimal is too long. [Laughter.]

With that, we thank you all. I think we had some good work. [Whereupon, at 11:58 a.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED

PREPARED STATEMENT OF NANCY DUFF CAMPBELL

I appreciate the opportunity to appear before the Committee today to provide the views of the National Women's Law Center on S. 1231, Chairman Moynihan's bill to increase the wage threshold for the payment of Social Security taxes on domestic workers and to update and simplify the filing requirements for payment of such taxes.

The National Women's Law Center is a non-profit organization that has been working for over twenty years to protect and advance women's legal rights. The Center focuses on major public policy issues of importance to women and their families, including employment, education, family support, income security, reproductive rights and health, with special attention given to the concerns of low-income women.

The issue before the Committee today is of critical importance to low-income women. Women, and in particular women of color, comprise the majority of domestic workers. If their wages are not reported and their Social Security taxes are not paid, they—as well as their dependents and survivors—may be deprived of Social Security protection in old age, at disability, or at death. Women, too, are the primary employers of domestic workers. If the complexity of the current tax filing requirements is not addressed, and the wage threshold is not adjusted to exempt occasional domestic work for small sums of money, confusion and frustration with the law will continue, and compliance with its provisions will be discouraged.

S. 1231 strikes the appropriate balance between the needs of domestic workers and their employers. The changes contained in the bill are sorely needed and should both improve public awareness of, and compliance with, tax requirements. Coupled with greater public education efforts on the benefits of Social Security protection, the changes should also lead to greater economic security for domestic workers. Accordingly, we urge the committee to approve S. 1231, with one modification, for the reasons set forth below.

1. INCREASING THE WAGE THRESHOLD

S. 1231 properly links the wage threshold at which employers of domestic workers incur a Social Security tax obligation to the annual wage threshold that entitles a worker to a quarter of Social Security coverage. This threshold is currently \$590, indexed to increase as average wages increase. Under the Social Security system, a worker can earn a maximum of four quarters of coverage in a year, and, in general, must earn 40 quarters to qualify for retirement benefits. In essence, S. 1231 provides that if a domestic worker earns enough to receive a quarter of Social Security coverage, the employer will be required to pay the Social Security taxes needed to assure such coverage.

When the current threshold of \$50 a quarter for payment of Social Security taxes was adopted in 1950, it corresponded to the \$50 in wages needed to earn a quarter of Social Security coverage. Hence, S. 1231 restores to the law the original relationship between the wages needed for an employee to obtain a quarter of coverage and the wages needed for the employer to incur a tax obligation. Moreover, under S. 1231's indexing provisions, this relationship will continue, and the law's wage threshold will not again become obsolete.

In addition to the link to a quarter of Social Security coverage, an annual threshold of \$590 strikes an appropriate balance between the need to update and simplify the current tax requirements and the need to protect low-wage domestic workers. A threshold of \$590 exempts employers of domestic workers from payment of taxes on an occasional babysitter or snow shoveler. At the same time, it protects the So-

cial Security benefits of most domestic workers. According to the Social Security Actuary, fewer than one percent of employees who rely solely on domestic service for income would lose a quarter or more of Social Security coverage; only two percent of all domestic employees would lose a quarter or more of coverage.

We have a concern about S. 1231's proposal to exempt employers of domestic workers under age 18 from payment of social security taxes, however. Although we understand the intent of the provision—to exempt employers of the occasional teenage worker whose \$10–15 weekly wages could, without much effort, reach \$590—we are concerned about its potential application to regular full- or part-time workers.

Thus, we believe the exemption is written too broadly. As of March, 1992, the most recent year for which data are available, there were 2.3 million 16- and 17-year-olds in the labor force, most of whom had annual earnings over \$590. Although data are not available on the number of domestic employees in this group, we are particularly concerned about young women for whom domestic work is their sole or primary source of income. Especially if they have dependent children, their need for Social Security protection is clear, and to deny them the opportunity to have wages credited toward that protection is unwarranted.

Instead, we believe that the provision should be modified to exempt only those domestic workers under age 18 who are claimed as a dependent by another taxpayer or, alternatively, do not themselves claim another individual as a dependent. Either requirement should be simple to implement. Since teenage workers will have to provide their employers with some certification of age to obtain S. 1231's age-related exemption, they could certify their dependency status at the same time. For example, an under-18-year-old worker who claims no personal exemptions on form W-4 because she is a dependent of another taxpayer could thereby provide such certification.

In contrast to S. 1231's threshold of \$590, the threshold of \$1,750 proposed in the House Reconciliation Bill, H.R. 2264, is far too high. For example, a woman paid \$50 per day by several households to perform services on a bi-weekly basis would earn \$12,500 annually, enough to accrue four quarters of Social Security coverage. However, none of her employers would be liable for Social Security taxes because her earnings from each would be only \$1,300.

Moreover, if the \$1,750 threshold were enacted, according to the Social Security Actuary, 19 percent of workers who rely solely on domestic work for employment and currently receive Social Security coverage would lose one or more quarters of coverage; nearly 16 percent of all domestic workers currently receiving coverage would lose at least one quarter of coverage.

2. SIMPLIFYING THE REPORTING AND FILING REQUIREMENTS

An important part of S. 1231 are its provisions to simplify the process for reporting wages and paying employment taxes. Currently, an employer of a domestic worker whose wages are at least \$50 a quarter must annually file five separate federal tax forms—four quarterly returns (form 942) and one Wage and Tax Statement (form W-2) at the end of the year—just to report and pay Social Security taxes. In addition, if the worker's wages are at least \$1,000 a quarter, the employer must file a Federal Unemployment Taxes (FUTA) form (form 940) at the end of the year with the required taxes. Employers may also be required to pay state unemployment taxes quarterly, most of which are credited against FUTA. If the employer and the employee agree, employees must withhold and pay federal income taxes quarterly with the Social Security taxes. (If the employee is eligible for advance payment of the Earned Income Credit, this factor can further complicate the amount of Social Security and income taxes withheld and remitted.) And finally, depending upon the state, employers may be required to withhold and pay state (and possibly local) income taxes. This is a complicated process, requiring careful recordkeeping and the filing of several forms. It can be particularly burdensome when relatively small amounts of tax are involved. S. 1231 simplifies the process in several important ways.

First, S. 1231 simplifies reporting by eliminating quarterly wage reporting and tax payments. Instead, employers would report the wages of domestic employees only once a year; when they file their own federal income tax returns. As long as they pay the employment taxes due as part of their own taxes, they would not be considered to have underpaid any estimated taxes otherwise due on a quarterly basis. In addition, under agreements authorized between the Treasury Department and the states, state unemployment taxes could also be paid once a year on the em-

ployer's 1040 tax return.¹ Using form 1040 for the payment of Social Security, unemployment and income taxes of domestic workers should make employers more aware of their obligations as well as simplify the process of paying these taxes.

Second, in conjunction with these simplification provisions, S. 1231 requires the Treasury Department to prepare and make available information on the tax obligations of employers of domestic workers. This provision is critical to ensuring compliance with the new procedures. If the events of the past few months have demonstrated anything, it is that widespread taxpayer education—for both employers and domestic workers—is sorely needed. Both employers and workers need to understand the importance of paying the required taxes, and the procedure for doing so.

In contrast, although the House bill similarly authorizes annual payment of the employment taxes of domestic workers on the employer's income tax return, it does not obviate the requirement that employers make quarterly estimated payments or adjust their own withholding to take account of this obligation. This process is no less cumbersome than the current filing requirements, yet the change would require those taxpayers who currently file quarterly to learn a new procedure.

3. REJECTING A BLANKET AMNESTY

Finally, we are pleased that S. 1231 does not contain the "amnesty" provisions of the House bill, which release from tax liability employers of domestic workers who failed to pay employment taxes for years 1951-1993 if the wages earned fell below certain newly-established annual thresholds. This blanket release from liability for back taxes, interest and penalties is unprecedented in federal tax law.

Moreover, a blanket release from liability hurts domestic workers who would receive Social Security coverage if back taxes were paid. It also improperly rewards employers who either mistakenly or willfully did not meet their legal obligation to pay employment taxes, undermining efforts to increase compliance. Additionally, substituting a multi-tiered schedule of wages for the current \$50 threshold to determine when underpayment has been made, as the House bill does, will not ease the IRS's burden of pursuing delinquent taxpayers. Although fewer tax delinquents may be pursued than under a \$50-a-quarter threshold, the task of applying a multi-threshold test would make enforcement more difficult.

Finally, such an amnesty is not needed because IRS currently has the authority to release from interest or penalties those taxpayers who voluntarily pay back taxes. Such authority permits the agency to encourage payment of taxes (and the protection of low-income domestic workers) yet provide some tax relief to employers who in good faith failed to pay these taxes.

In closing, we urge the Committee to approve, and the Senate to pass, S. 1231, with the modification we have proposed to the provision to exempt domestic workers under age 18. Such legislation would strike the appropriate balance between the need to update and simplify the current tax requirements for employers and assure the continued Social Security protection of thousands of low-income domestic workers.

PREPARED STATEMENT OF SENATOR DAVE DURENBERGER

In the wake of the scandal surrounding the nomination of Zoe Baird to the position of Attorney General, as well as several other potential Clinton nominees, an issue of broad concern to a vast majority of Americans has been thrust into the national spotlight. This issue touches the life of any person who hires what is considered to be a "household employee." A household employee might be a babysitter, a nanny, a housekeeper, child who shovels your sidewalk or mows your lawn, or any one of a number of other workers.

The question here is whether or not the person employing these people must file for withholding of Social Security. Under the current Social Security and tax laws, an employer must withhold Social Security for a household employee who earns more than \$50 per quarter. This threshold was established in 1954 and has never been changed—not ever to take account of inflation.

On February 18, I became the first Senator to respond to the need to update this law, on that day, I introduced S. 402, the Occasional Employment Tax Equity Act.

As we all know, fifty dollars went a lot further in 1954 than it does today. In 1954, a babysitter making 20 cents an hour would earn \$1 per night for a long night

¹ Employers who do not wish to wait until the end of the year to pay the full amount of employment taxes due may pay estimated taxes or adjust their own withholding accordingly.

of work. This figure would allow his or her employer to go out 50 nights per quarter, or 200 times per year, without having to worry about filing withholding forms. Unfortunately, the same fifty dollars does not go very far at all by 1993 standards.

Where babysitters were making 20 cents an hour 20 years ago, they now can earn three to ten dollars an hour, depending on where they live and how many children they are caring for. The wage paid to babysitters has kept up with the increasing cost of living. But, our laws affecting these employees have not changed to reflect this fact.

The Congressional Budget Office estimates that \$50 in 1954 dollars would be approximately equal to \$250 today. The bill that I introduced on February 18th, S. 402, would increase the threshold to \$250 per quarter to reflect this adjustment for inflation. Also, to prevent this problem from recurring, my bill provides for automatic adjustments for inflation in the future.

At \$250 per quarter, an employer would be able to use a single babysitter at three dollars per hour for six hours, per week, every week, without having to withhold Social Security. Any number of different babysitters could be employed to increase the average number of hours on the whole. For example, if parents knew of three babysitters who were available, they could all work an average of six hours per week, every week, without hitting the ceiling for Social Security.

This bill raises the threshold requirement, but does so conservatively. I believe that we should focus on helping parents who hire an occasional babysitter, or the elderly who hire someone to help them by shoveling the sidewalk or delivering their groceries. For these occasional household employees, it seems unnecessary and burdensome for them and their employers to contend with the inconvenience of filing forms for a relatively insignificant amount of money. For the amount of money that would be covered under the \$50 rule, it would almost cost more for the IRS to process the forms than would be collected in revenue. Plus a more realistic filing threshold would encourage more people to file. More filings will bring in more revenue.

My bill will not exempt filing for full-time nannies or full-time housekeepers. Those who work in a full-time capacity deserve to have their future protected by social security coverage. This would retain the current exclusion for independent contractors such as professional housecleaning or lawn services.

I invite my colleagues to join me to promote the kind of change specified in the language of my bill. This bill will offer substantial clarification and will promote increased compliance in a tangled area of tax law.

Since this issue is before us now in the Budget Reconciliation Conference, I strongly urge my Colleagues to adopt my proposed limits of \$250 per quarter, or \$1000 per year, as a first attempt to address this issue, rather than the higher threshold set forth in the House language. This lower threshold casts a smaller net, exempting occasional employees, while retaining coverage for regular employees such as housekeepers and full-time nannies.

Today we have the opportunity to make this provision more fair for everyone—employers, full-time employees, and occasional employees. I hope that we can adopt this much needed change and even improve it—by setting the limit at the reasonable rate of \$250 per quarter.

PREPARED STATEMENT OF DAVID T. ELLWOOD

Mr. Chairman and Members of the Committee: I welcome the opportunity to be here today to discuss Social Security coverage for domestic employees and proposals to improve public understanding of, and compliance with, the laws related to employment of domestic workers. I want to commend the committee for holding a hearing on this important and timely subject—one that affects millions of household employees and their employers.

There are some important questions about domestic employment which now confront the Congress and the Administration. One of the most pressing questions is how best to address the widespread problem of noncompliance with wage reporting requirements, so that domestic employees get Social Security credit for their Covered work and have the valuable protection that Social Security provides. But we also need to consider whether the current \$50 test for coverage of domestic employment, which was set in 1951, needs to be updated. Finally, we need to consider ways to simplify and streamline the administrative requirements that apply to employers of domestic workers.

These important issues are addressed by the provisions of your bill, which I will discuss as requested in your letter of invitation. However, to set the stage, I want to begin by briefly discussing the history of Social Security coverage of domestic employment and current employer responsibilities for reporting domestic earnings.

Then I will discuss the reasons for noncompliance and its consequences for domestic workers who attempt to qualify for Social Security benefits.

HISTORY OF COVERAGE FOR DOMESTIC EMPLOYMENT

Turning first to the history of coverage, it is interesting to note that the questions now facing us were foreseen decades ago. In fact, the treatment of domestic employment has been of concern since the Social Security Act was signed into law in 1935. At that time, the Committee on Economic Security—which authored the original Social Security Act—recommended covering wages paid to domestic employees.

However, there were two concerns which caused domestic employment to initially be excluded from Social Security coverage. One concern was that it would be difficult to obtain accurate wage reports from employers, many of whom had no business experience and were thus unfamiliar with wage reporting. The other concern was that it would be difficult to enforce collection of taxes from a large number of employers, each of whom employs only a small number of employees.

Counterbalancing these concerns, however, was a recognition that domestic employees have a particularly compelling need for Social Security coverage, because they tend to have relatively low wages and no pension plans. Therefore, beginning in 1951, coverage was extended to domestic employees.

To minimize the anticipated reporting problems, coverage for these workers was made subject to a wage and time test. Under the 1951 test, a domestic employee was covered only if the employee was paid \$50 or more in a calendar quarter, which then was a measure of significant employment for all employees. In addition, the domestic employee must have worked for the employer for a minimum of 24 days in the quarter. For domestic workers with more than one employer, the test was applied separately to each employer.

Within a few years, though, the 24-day part of the test was found to be “unnecessary and complex.” Beginning in 1955, then, Congress dropped the 24-day requirement in order to simplify the test and to expand coverage to additional domestic workers. Except for this one change, the coverage test for domestic employees is the same today as it was when coverage was first extended.

CURRENT EMPLOYER RESPONSIBILITIES

Now let me briefly describe the employer responsibility for reporting domestic earnings and the roles the Social Security Administration (SSA) and the Internal Revenue Service (IRS) play in the process. If domestic employment meets the \$50 coverage test, it is the employer's responsibility to report those wages and to remit the appropriate Social Security taxes, including Medicare taxes.

As you know, Mr. Chairman, SSA is responsible for crediting wages to the employee's earnings record, so that any Social Security benefits eventually payable reflect an employee's total covered earnings. IRS, on the other hand, has responsibility for enforcing compliance with employer reporting requirements, and for collecting Social Security taxes.

Therefore, the employer must report the wages paid to domestic employees—and remit the employer and employee portions of the tax—to IRS. This must be done on a quarterly basis, using Form 942, the “Employer's Quarterly Federal Tax Return.” In addition, the law requires the employer to furnish the domestic employee with a form W-2 showing the total wages and Social Security taxes paid in the year. And, to allow SSA to credit the employee's earnings for Social Security purposes, the employer must submit a copy of the form W-2 to SSA.

REASONS FOR EMPLOYER NONCOMPLIANCE

Despite these requirements in the law, however, many domestic employers fail to report their employees' wages. There appear to be several reasons for this situation. For example, some domestic employers may be unaware of the requirements of the law. This is especially likely for those who hire help only sporadically—such as a homeowner who occasionally hires a neighborhood teenager to babysit or mow the grass.

On the other hand, although some domestic employers are aware of the law, they may not wish to incur the expense of paying the Social Security tax. In other cases, an employee—who may be receiving very low wages—may ask the employer not to withhold Social Security taxes. They may believe that they are unable to afford the employee share of the tax, because of the pressure of their everyday living expenses.

In addition, both employer and employee may want to prevent the Government from discovering an undocumented foreign worker. Or, the employee may wish to remain eligible for payments under a government welfare or benefit program, and the employer may agree not to report the wages because he needs the employee's

services. This category of employee may include some who get Social Security retirement benefits, and wish to avoid the retirement earnings test.

Finally, employers may be discouraged from reporting wages because they are confused regarding the necessary forms and procedures, because they are reluctant to deal with the Government, or because they regard the reporting requirements as unduly burdensome.

SSA'S PROCEDURES FOR CREDITING UNREPORTED EARNINGS

Noncompliance often becomes apparent only when the domestic employee comes to SSA to file for benefits. All too often, that is the first time an employer's failure to report wages comes to light. This delay means that SSA is called upon to reconstruct a life-long earnings history for a domestic employee whose earnings were not properly reported—a time-consuming, labor-intensive, and sometimes frustrating process.

However, even if many years have elapsed since an employer failed to report a worker's earnings, SSA will correct the record if acceptable evidence of the unreported earnings is available. Indeed, our claims representatives (CRs) are trained to take steps to ensure that every applicant's earnings record is complete and accurate.

For instance, as part of the benefit application process, we review the Social Security earnings record with each worker and we ask the worker to carefully examine the amounts recorded to see whether they appear correct. SSA's modernized claims system, which uses state-of-the-art computer technology to help our field employees do their work more effectively, helps in this respect. If a worker's earnings record shows a year of below-average earnings, the system flags the record to remind the CR to document the explanation for the irregular pattern of earnings.

If a person filing for benefits believes that earnings have not been reported, and the unreported wages are needed to establish the person's eligibility for benefits or to increase the amount of the benefit, the CR attempts to contact the employer. If the employer agrees that he employed the domestic employee, we then ask the employer to sign a statement indicating the amount of wages paid and the periods in which the worker was paid. If the employer signs such a statement, we add these wages to the worker's earnings record and consider them in determining the worker's eligibility for or amount of benefits.

Sometimes the employer is unwilling to sign a statement, or the employer has died or cannot be located. In these situations there are several other forms of evidence that we use to establish a worker's unreported wages, such as tax returns.

If these documents are unavailable, we ask the worker for other evidence that may be available, such as pay slips or other records kept by the worker. As a last resort, we can establish wages based on statements from coworkers who knew of the employment relationship, when it occurred, and, in general, the amount earned by the worker.

If SSA establishes additional wages for a worker, we inform the IRS, which is responsible for the collection of unpaid Social Security taxes. The liability for unpaid taxes—including the employee's share of the Social Security tax, interest, and any penalties—rests solely with the employer.

I would emphasize, Mr. Chairman, that, while SSA works very hard to establish a person's unreported wages, we often find it very difficult to obtain sufficient evidence. Thus, our best efforts are no substitute for timely compliance by employers in reporting the wages they pay to their employees.

Clearly, the sooner a worker makes us aware of unreported earnings, the better chance we have of finding acceptable evidence of earnings. But workers may be unaware that their employers have not reported their earnings. SSA has been encouraging workers to periodically request a Personal Earnings and Benefit Estimate Statement (PEBES) so they can check their records and let us know if any earnings are missing.

I expect the legislation you initiated, Mr. Chairman, to send PEBES annually to an estimated 126 million workers aged 25 and older, to be very helpful in increasing the likelihood that SSA will be able to credit unreported earnings. In 1994, SSA intends to send out a sample mailing of PEBES to about 600,000 people aged 25 and over to give the agency better demographic and workload data for planning purposes. By the year 2000, workers will get an annual year-by-year breakdown of their Social Security earnings credits. Thus, we believe workers will be more likely to be aware of unreported earnings and to report them to SSA sooner, giving SSA a better chance of locating the employer and establishing evidence of earnings.

CONSEQUENCES OF NONCOMPLIANCE

To properly recognize the potential loss of benefits due to noncompliance, one must remember that Social Security is not just a retirement program; it is a package of retirement, disability, and survivors protection. Because a worker needs some recent work to qualify for Social Security Disability Insurance, domestic employees whose wages were not reported may never qualify for this protection. Or, they may lose protection quickly if no wages are credited to their earnings record for some time. In addition, in the event of the employee's death, his or her dependents could lose valuable Social Security survivor benefits.

Finally, of course, the employee may lose eligibility for Social Security retirement benefits. Or, those benefits may be much lower than they otherwise would have been. Thus, when employers fail to report the wages of a domestic employee, they are not just violating a provision of the law—they may also be depriving domestic employees of future Social Security benefits.

And, in a broader sense, it is also likely that diminished Social Security protection for domestic employees places an additional burden on Federal, State, and local government "needs-based" programs, such as Supplemental Security Income, Medicaid, food stamps, and AFDC. This is especially true because domestic workers are often among the poorest in our society.

COMMENTS ON CHAIRMAN'S PROPOSAL

Mr. Chairman, in your letter of invitation you asked for my views on S. 1231, a bill you recently introduced that would change the rules regarding Social Security coverage and wage reporting for domestic employees.

One provision of your bill would simplify wage reporting for employers by making the employer's Federal income tax return the instrument for reporting the wages of domestic employees and paying the Social Security taxes due. We fully endorse this provision because it would improve employer compliance. The reporting procedures would be easier for employers to understand and less burdensome for them to comply with. Also, employers would be more aware of their reporting responsibilities, because they would be part of their income tax instructions.

Your bill would also make the domestic coverage threshold an annual amount, rather than a quarterly amount. Also, the bill would initially make the threshold the amount required to earn a quarter of coverage—estimated to be \$610 in 1994—and provide for periodic adjustments based on increases in average wages.

We agree that it would be logical to make the domestic coverage test an annual amount, since earnings would be reported annually on the employers' income tax form. We also agree that the current \$50 threshold is out of date and needs to be increased. We think that the threshold should strike a balance between domestic worker protection concerns and employer burden considerations. A \$610 test is appropriate from the perspective of protecting domestic workers. It also seems reasonable, in combination with the simplified reporting system, for easing employer reporting burdens. Therefore, we would support a \$610 coverage test, or a figure ranging up to \$1,000. However, we would not support a threshold amount above \$1,000, because it would diminish protection for an unacceptably large number of domestic workers.

CONCLUSION

In conclusion, Mr. Chairman, I would like to thank you again for the opportunity to be here today. We share your concern that widespread noncompliance means that some of those who most need Social Security protection—low-paid domestic workers and their dependents—may be deprived of that valuable protection.

Simplifying the reporting procedures and raising the coverage test to \$610, as you have provided in your bill, Mr. Chairman, would go a long way toward alleviating any unnecessary burden on employers, while also helping to ensure that vulnerable workers are protected. For that reason, we are pleased to support these provisions.

PREPARED STATEMENT OF RANDOLF HURST HARDOCK

Mr. Chairman and Members of the Committee: I am pleased to be here today to present the views of the Department of the Treasury on proposed changes to the Federal employment tax rules governing household employees. The Department believes that significant simplification in this area can be accomplished in a manner that both reduces the administrative burden on taxpayers and preserves the important policy of providing social security coverage for household employees. As I will discuss in more detail, the Department supports S. 1231, the bill recently introduced

by Chairman Moynihan. The Chairman's bill would dramatically simplify the current law requirements for filing and payment of employment taxes on household employees, which we believe would be a significant step toward improving compliance among household employers and expanding social security coverage for household employees. We will be pleased to work further with the Chairman and the Committee on this important issue.

BACKGROUND

For background purposes, I would like to briefly describe the tax filing and payment requirements that apply under current law. Household employers who pay cash wages of \$50 or more per quarter must pay social security taxes (including Medicare taxes) on the wages paid to the household employee. The social security taxes are comprised of both an employer and employee portion and are paid each quarter on a Form 942. Household employers who pay cash wages of \$1,000 or more in any calendar quarter in the current year or the preceding year also are subject to Federal unemployment taxes and must file an annual Federal unemployment tax return on Form 940 or Form 940EZ. Quarterly deposits are required if certain liability thresholds for unemployment taxes are met. In addition, the states also require the filing and payment of state unemployment taxes, which also are typically done on a quarterly basis.

In addition to employment taxes, the household employer also may withhold and remit income taxes on a quarterly basis. However, wage withholding for household employers is not mandatory and is subject to agreement between the household employer and employee. If such an agreement is made, the withheld income taxes are reported and paid quarterly on the Form 942 along with social security taxes.

A household employer also must provide household employees with a wage and tax statement on Form W-2 no later than January 31st of each calendar year. Copies of the Form W-2 also must be filed with the Social Security Administration and, in some cases, filed along with a transmittal of income and tax statements on Form W-3.

SIMPLIFICATION OF FILING AND PAYMENT OF EMPLOYMENT TAXES

The Department strongly supports the provisions in the Chairman's bill that would facilitate annual filing and payment of all employment and income taxes for household employees. The simplification that would be achieved by the Chairman's bill would significantly reduce the filing burden on household employers. As indicated in the attached chart, household employers potentially could reduce their obligations from eleven different state and Federal tax form filings to two—their own Federal income tax return and a wage and income tax statement provided to the employee and the Social Security Administration. In the aggregate, this would eliminate the need for an estimated 1.4 million quarterly Forms 942 that are filed each year by household employers.

This simplification would be achieved by giving the Internal Revenue Service the authority to institute what is essentially a "one-stop" filing procedure for both state and Federal employment taxes for household employees. As a result, household employers' filing obligations potentially would be reduced from the various Federal and state quarterly filings discussed above to a single annual filing as part of their own Federal tax return. Under the bill the employment taxes of household employees would be reported as a separate line item on the household employer's income tax return. This method would provide the household employer the choice of either increasing his or her own income tax withholding as a method of remitting these amounts or, if the household employer remits estimated income taxes quarterly, increasing his or her quarterly income tax payments. The bill explicitly provides that no penalty for failure to pay quarterly estimated tax will apply to the extent that any underpayment is attributable to the employment taxes of household employees.

In addition to the simplification in reporting and payment of employment taxes that would be achieved by the bill, the Department also believes that these changes could have positive compliance effects. Including these amounts on the annual income tax return will increase household employers' awareness of their employment tax obligations and remove compliance barriers by eliminating the complications of the quarterly reporting and payment system.

WAGE THRESHOLD

The Department strongly agrees with the position in the Chairman's bill that it is appropriate to increase the wage threshold that triggers employment tax obligations for household employees. The original \$50 quarterly threshold no longer is an accurate measure of "casual labor" and results in burdensome filing obligations that

cannot be justified in light of the insignificant amount of taxes owed. Moreover, the low threshold leads to such high rates of noncompliance that it could undermine the public's belief in the fairness of the tax system overall. However, the Department strongly believes that any increase in the wage threshold must be balanced against the need to maintain social security coverage and benefits for household employees.

Under the Chairman's bill, the wage threshold would be raised to the dollar amount needed to earn one quarter of social security coverage. For 1994, that amount would be \$610. Although we would not oppose a wage threshold that is explicitly tied to the social security coverage amounts, the Department believes that greater simplification could be achieved by adopting a somewhat higher threshold that is an even dollar figure. We believe that an even \$1,000 threshold would provide significant administrative advantages because it is easier for taxpayers to remember and to calculate from year to year. On the other hand, the Department would not favor a threshold above \$1,000 per year. We believe that the simplicity achieved at a threshold above \$1,000 would not justify the associated loss in social security coverage for household employees.

In addition, the Department believes that while indexing is necessary to avoid an outdated wage threshold in the future, it is preferable to index the threshold by even dollar amounts and to reduce the frequency of changes in the threshold from year to year. For these reasons, we would suggest an indexing method that would raise the threshold in even dollar amounts, such as \$200 or \$500 increments. For example, using either a \$200 or \$500 indexing method, a \$1,000 threshold would be indexed to \$1,200 after five years or to \$1,500 after eleven years, assuming a four percent annual increase in wages. The Department believes that this type of procedure would retain the benefits of indexing but also would help to reduce taxpayer confusion and administrative complexity resulting from more frequent changes to the wage threshold.

TEENAGER EXEMPTION

The Department notes that the Chairman's bill would exempt from the definition of "employment" any household work performed by individuals under the age of 18. The Department has concerns that such an exemption would create disparities between teenagers who perform domestic work and those who work for a trade or business. In addition, if a teenager exemption is included, we believe that the Committee should consider whether it would be more appropriate to lower the age for exemption, given that a segment of older teenage household employees may be engaged in full-time work.

**INCOME TAX, SOCIAL SECURITY, AND UNEMPLOYMENT INSURANCE
FORMS REQUIRED TO BE FILED BY HOUSEHOLD EMPLOYERS**

BEFORE

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| 1. IRS FORM 942 | APRIL 15 |
| 2. STATE UNEMPLOYMENT FORM* | APRIL 30 |
| 3. IRS FORM 942 | JULY 15 |
| 4. STATE UNEMPLOYMENT FORM* | JULY 31 |
| 5. IRS FORM 942 | OCTOBER 15 |
| 6. STATE UNEMPLOYMENT FORM* | OCTOBER 31 |
| 7. IRS FORM 942 | JANUARY 15 |
| 8. STATE UNEMPLOYMENT FORM* | JANUARY 31 |
| 9. IRS FORMS W-2 TO WORKERS** | JANUARY 31 |
| 10. IRS FORM 940 or 940EZ | FEBRUARY 10 |
| 11. IRS FORM 1040 | APRIL 15 |

* Date of state unemployment forms varies.
Quarterly Federal unemployment payment
also may be due on Form 8109.

** Form W-2 (along with Form W-3, if
applicable must also be filed with the SSA
by February 28.

AFTER

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|-------------------------------|------------|
| 1. IRS FORMS W-2 TO WORKERS** | JANUARY 31 |
| 2. IRS FORM 1040 | APRIL 15 |

** Form W-2 (along with Form W-3, if
applicable must also be filed with the SSA
by February 28.

Office of Tax Policy
Department of the Treasury

PREPARED STATEMENT OF SENATOR ORRIN G. HATCH

I want to thank the Chairman for holding this hearing today. The question of Social Security taxes on domestic help has been the subject of much debate lately.

It is obvious that the current system is flawed. It is complicated, and many people are unaware that they are affected by it. The extent of the problem is demonstrated by the low compliance rate, which is estimated by the Internal Revenue Service to be about 25 percent.

As has been shown a number of times this year, we have become a nation of Social Security tax lawbreakers. The problem of noncompliance of Social Security withholding laws for domestic help affects not only the more affluent in our society, but also middle income people and many in minority and low-income groups. Domestic employees are often low-income workers barely eking out a living while employers are often two-income families who must work to make ends meet. Both groups struggle to understand the compliance requirements, which are both burdensome and complex.

The proposal we are discussing today is a good first step in addressing the problems. However, it does not really solve all of the problems. For one thing, I am concerned that this proposal would shift the filing requirement from the employer to the employee. The burden of complying with regulations that could very likely require some professional tax advice and preparation will now fall on those who cannot afford this type of help. By shifting the burden to the employee, I am concerned that the level of compliance could slip even below 25 percent.

A final solution to this problem must deal with the fact that by raising the withholding threshold, we could be forcing the employee to lose Social Security retirement benefits. We must balance the retirement security needs of employees with the need to establish a system that is understandable and reasonable.

I believe, however, that this proposal is a good first step and look forward to reviewing the testimony of the witnesses today. I am sure they will give us valuable information that will be useful as we try to formulate a more even and complete solution to this thorny problem.

PREPARED STATEMENT OF MARY GARDINER JONES

Senator Moynihan and distinguished members of the committee: Thank you for providing the Older Women's League (OWL) the opportunity to testify today. OWL commends the chairman and the members of the committee for their continued leadership to improve the Social Security system for all workers.

My name is Mary Gardiner Jones. I am a board member of the Older Women's League and chair of OWL's public policy committee. Founded in 1980, OWL is the first national grassroots membership organization to focus exclusively on issues of concern to midlife and older women. Through education, research, and advocacy, we work for public policy changes to reduce the inequities women face as they age.

Social Security is the lifeline for many older women. It is a necessary and vital income insurance plan which establishes a foundation for economic protection and security for older, disabled, and widowed Americans. Yet over the years, certain categories of women, particularly widows and divorced women, receive neither equitable nor adequate benefits. It is a goal of the Older Women's League to see that the Social Security system reflects social and demographic changes, particularly the patterns of women's lives. The highest rates of impoverishment today are among widows and divorced women for whom Social Security may be the sole source of income in their old age.

Those who lose out on adequate benefits include:

- low-income women who work for multiple employers many of whom do not pay Social Security taxes;
- women in a two-earner couple;
- homemakers who have no disability protection;
- divorced homemakers who are frequently left with inadequate retirement benefits after many years of marriage; and
- aged women who have outlived their sole wage-earner husbands by many years;

DOMESTIC WORKERS AND SOCIAL SECURITY

Domestic workers, primarily women, are those who care for children and disabled adults, who guarantee the independence of frail older persons through home care services, and who provide housekeeping services for busy working families and older persons who cannot do this work themselves.

In essence, domestic workers provide supportive services for other women in the work force and households in need of extra help. They are often responsible for the health and welfare of another human being who is left in their care. At the same time, they are fulfilling their own family obligations.

Whatever service they provide, all domestic workers share the same characteristics of low wages, minimal benefits and, a bleak future of impoverishment in late life years.

Domestic workers frequently perform demanding, heavy, physical work which makes it difficult for them to work past retirement age. They are usually at the bottom of the wage scale and with no pension and limited savings, they are almost entirely dependent upon Social Security benefits for their livelihood in retirement.

Women who have retired from the workforce receive a Social Security benefit that is only three-fourths the average Social Security benefit of men—the average Social Security benefit is \$562 for women and \$735 for men. This reflects the lower wages that women earn throughout their lives and the lack of value placed on the work of women who take leave from the workforce to care for family members, whether children or parents.

In 1991, the median yearly income for older women—including earnings, Social Security, pensions, and assets was \$8,189, while for men it was \$14,357. For 39% of these women, Social Security is the major source of income.

If Social Security taxes are not paid on even this minimal income, domestic workers will be forced to rely on the Supplemental Security Income (SSI) program in their old age.

As you know, Mr. Chairman, when the SSI program was first established in 1972, it was designed to assure that aged, blind, and disabled persons need no longer exist on incomes below the poverty level. However, this program has failed to keep the promise of Congress when the legislation was passed that people in this country would not fall into poverty. Today, the highest monthly federal SSI check is \$422 for an individual—only \$97 per week. Most checks are lower than this. The current benefit standard represents less than 75 percent of the poverty level. Reliance on SSI is a very bleak prospect after many years of often arduous work.

Moreover, SSI is a means-tested program which domestic workers who have worked all their lives should not be compelled to rely upon because their reported Social Security income does not reflect their real earnings.

REPORTING REQUIREMENTS

Zoe Baird, President Clinton's first nominee for Attorney General, focused the nation's attention on the problem of noncompliance with this nation's Social Security laws. A significant number of other candidates for appointment to federal service have been dropped when they, too, acknowledged their failure to pay Social Security taxes for domestic employees. Although 750,000 domestic workers currently have their wages reported, this number is considered an under count. Many employers ignore the law.

This is not a problem of finding good, reliable child care or household help as the *Washington Post* recognized in a blunt editorial in May:

"The so-called Zoe Baird problem has been described as just about everything but what it first and foremost is—a problem of (a) tax avoidance that (b) costs some of the poorest people in the society Social Security benefits in their old age or if disabled."

There are some who argue that many female employers cannot afford to pay Social Security taxes for child or elder care. Ironically, this is the same argument that employers often use for not providing pension coverage for employees. Nevertheless, it is true that some women find that paying taxes for domestic workers is difficult. However, the solution must be not in denying coverage but rather in higher compensation for working women and the community services that provide child and elder care. Middle or upper income women should not exploit lower income women.

There are others who contend that domestic workers don't want their wages reported and Social Security taxes deducted as they are already living on a minimal income. However, whenever any of us contribute to under-the-table payments, we undermine our whole taxation system and reduce support for government services. This shifts the burden, unfairly, to citizens who do report earnings. But again, I want to emphasize that the most dangerous outcome of nonpayment of Social Security taxes for workers is that it probably results in the worker's impoverishment in old age.

In addition, domestic workers, like all workers, also need access to Social Security disability benefits in the event it is needed. Yet, if a domestic worker becomes dis-

abled for whatever reason, she is without economic support if rendered ineligible for disability benefits due to nonpayment of Social Security taxes.

The Older Women's League supports your proposal that would set an annual wage threshold for reporting earnings at \$610 for 1994. This assures that fewer domestic workers will lose coverage than was proposed in the House version of the budget reconciliation bill. We would be deeply concerned if any higher threshold, such as that proposed by the House, is accepted. Higher thresholds, especially when coupled with annual instead of quarterly reporting periods, will create irresistible incentives for employers to hire multiple employees for the same job in order to avoid Social Security taxes.

The Older Women's League also supports your bill's reporting requirements. We believe that these will make it easier for employers to comply with the Social Security law through simplification of the process. The current reporting procedure is cumbersome—wages for even occasional babysitters need to be reported and, there is too much paperwork.

The circumstances that gave rise to intense interest in this issue have contributed to an education for all of us, particularly employers. However, in the course of the national debate on this matter very little has been said regarding why this issue is important to the livelihood of domestic workers.

Mr. Chairman, I would like to take this opportunity to make some further recommendations. Women in domestic work are particularly vulnerable because monitoring of compliance with Social Security requirements will continue to be difficult even with passage of your proposed legislation. We urge Congress to direct the Administration to develop a broad-ranged hard-hitting public education program directed to both employers of domestic workers and to the domestic workers themselves to help them understand the importance of our Social Security system. Education is one of the best safeguards to assure compliance with Social Security law. Domestic workers need to be persuaded that the Social Security system is important to them not only for their economic security in late life but also for their families in the event of disability. Their employers need to understand that as taxpayers they do not want to be saddled with unnecessary SSI costs when these could be avoided by payment of Social Security taxes.

The Older Women's League commends you, Senator Moynihan, for holding this hearing and allowing us to present another perspective on this issue.

SUMMARY

Much still needs to be done to provide coverage and greater equity for all women and men within the Social Security program.

The Social Security system needs to be changed to match our social and demographic changes and provide equitable coverage for all workers, no matter the level of their wages or their workplace. We cannot tolerate a program that looks the other way and allows employers to decide whether they will or will not make contributions to Social Security for their employees. As the work environment of domestic workers is in the home, not the business of the employer, it is particularly important that these workers are protected from employer non-compliance. It is time to move the Social Security system into the reality of life and work in the 1990s without perpetuating a system of winners and losers. Your proposal is a significant step in assuring that low-income domestic workers are not on the losing end.

I thank the Chairman for the opportunity to testify and on behalf of the Older Women's League, we look forward to working with you to improve Social Security for all.

PREPARED STATEMENT OF REPRESENTATIVE CARRIE P. MEEK

Mr. Chairman, I want to thank you for inviting me to testify before your committee today on a subject close to my heart. I am pleased to offer my support to your legislation, S. 1231, which would simplify the requirements regarding the payment of Social Security taxes for domestic workers. I am especially happy that S. 1231 seeks to improve Social Security coverage for these workers. This is an important goal that we cannot allow to become overshadowed by the desire to ease the paperwork burden on employers.

One of the first bills I introduced upon my arrival in Congress was H.R. 1114, which set an annual earnings threshold of \$300. I recognized the need for change from the \$50 per quarter threshold, but I was concerned that too great an increase would permit too many workers to fall between the cracks. The figure I chose was consistent with a provision that was included in tax legislation that was vetoed last year. This year, however, the House Ways and Means Committee included language

in the Reconciliation bill which would lift the threshold to \$1800. A subsequent attempt to reduce this threshold to \$1000 failed in committee on a tie vote.

Your approach, Mr. Chairman, is a very reasonable one. The threshold you suggest in S. 1231 is a very logical one in that it seeks to restore the linkage between the threshold and the requirement for being credited with a quarter of coverage, but it does not lift the threshold so high as to exclude a vast number of workers. In practical terms, it strikes a balance between the House Reconciliation bill and the current law which almost everyone agrees should be changed. A threshold of \$610 in 1994 would enable many more domestic workers to be covered by Social Security than would be the case with an \$1800 threshold. The Social Security actuary estimated that as many as 300,000 domestic workers a year would lose benefits at the \$1800 level. This would be about 40 percent of those domestic workers for whom Social Security taxes are now being paid. Mr. Chairman, these are the working poor, the very people we so often profess to say are most deserving of our help.

What would we say to those workers who would lose coverage? What would happen to them when they are too old and frail to work? They won't have IRAs sitting in the bank to help them through their retirement years. They could have been collecting welfare instead of cleaning houses. I begin to wonder if they would have been better off. Our society claims to place a high value on work, but reducing the participation of so many workers in the social security system sends a different message. We need to encourage better compliance with the law, not provide tax relief for employers.

Too much lip service is paid to the needs of the working poor, and there is not enough action on their behalf. A worker who gets paid to clean house once every two weeks for several employers would have a hard time reaching a high threshold. Such a person could work for ten families and earn \$13,000 annually and still not qualify to have social security taxes withheld. \$300 per year may be too low a threshold, but \$1800 is definitely too high.

I know first-hand what it is like to be a household worker. I was a domestic worker at one time. My mother was a domestic worker. My sisters were domestic workers. I had neighbors who were domestic workers and who never had any kind of retirement provisions made for them. The families that employed them would express much affection and gratitude towards them, but they did nothing for their employees' future economic security. Domestic workers affected by this proposal are mostly female and mostly minority. They are women who struggle to support their own families while seeing to the needs of others for very low pay. They don't belong to unions that can fight for them. They don't have any political power. If we do not watch out for their interests, who will?

S. 1231 would exclude from coverage the proverbial teen-age babysitter or occasional gardener, and that is entirely reasonable. We don't want to impose unnecessary burdens that discourage compliance. We want to help employers do the right thing, and I believe you accomplish this through annual reporting with the filing of income tax returns. We cannot, however, let employers off the hook completely when it comes to employees who work regularly doing household chores for others. The interests of the workers must come first, and I commend you, Mr. Chairman, for taking up their cause.

PREPARED STATEMENT OF ROBERT J. MYERS

Mr. Chairman and Members of the Committee: My name is Robert J. Myers. I served in various actuarial capacities with the Social Security Administration and its predecessor agencies during 1934-70, being Chief Actuary for the last 23 of those years. In 1981-82, I was Deputy Commissioner of Social Security, and in 1982-83, I was Executive Director of the National Commission on Social Security Reform. In 1983-85, I was Chairman of the Railroad Unemployment Compensation Committee, and in 1987-90, I was Chairman of the Commission on Railroad Retirement Reform.

I am pleased to testify on the bill, S. 1231, introduced by the distinguished chairman of this committee. This bill would provide for the simplified collection of Social Security (and Medicare) payroll taxes with respect to domestic workers. This would be done primarily by increasing the dollar coverage threshold from the present \$50 a quarter to an estimated \$610 a year for 1994 (with indexing thereafter) by providing for simplified annual reporting instead of separate quarterly reporting, and by exempting the services of persons under age 18 (actually, if under age 18 at any time in the year).

I believe that the result of this bill would be to provide reasonable Social Security protection for this category of workers, while at the same time greatly reducing the

administrative burdens on the employers involved. Coverage compliance would be greatly improved. I strongly support this bill and hope that it will be enacted.

HISTORY OF COVERAGE THRESHOLD FOR DOMESTIC WORKERS

When domestic workers were first covered under Social Security, effective in 1951, a coverage threshold was introduced so that those with only small earnings would not be covered. This was done so that the employer would not have the administrative difficulties associated with the reporting of earnings for only a small amount of work. At the same time, the worker would often not have benefited from such earnings if they were reportable because they would be insufficient to produce a quarter of coverage for benefit eligibility purposes. Thus, there was avoided the problem of reporting the services of a domestic worker who was hired for only a few days occasionally, such as for spring house-cleaning.

The coverage threshold so established was \$50 of cash wages paid in a calendar quarter. This amount was obtained, quite simply, as also being the amount of wages needed to acquire a quarter of coverage. Under this basis, all work of domestic workers that was covered would produce definite benefit rights. It was recognized, of course, that if no coverage threshold had been established, some domestic workers with less than \$50 of wages from each of several employers could accumulate sufficient total wages to obtain quarters of coverage. However, having a coverage threshold had the desirable effect of eliminating much administrative work associated with the reporting of only nominal wages, while at the same time assuring that any domestic work covered would always produce tangible benefit rights.

This dichotomy continued until 1978, when the requirement for a quarter of coverage was changed from \$50 of wages in a calendar quarter to \$250 of wages in a calendar year (maximum of four quarters of coverage in a calendar year), with such amount being indexed thereafter by the nationwide average wage. Thus, by 1993, the requirement was \$590 and will probably be \$610 in 1994. It may be noted that, if the "\$50 of quarterly wages for a quarter of coverage" requirement had been wage indexed after 1951, it would have been \$186 in 1978, so that, on the whole, the change to the "\$250 of annual wages for a quarter of coverage" basis was an easier-to-meet condition. In any event, however, after 1977, many domestic workers could have covered (and taxable) wages under the "\$50 of quarterly wages" threshold without being able to acquire quarters of coverage.

In some ways, the maintenance of a fixed coverage threshold of \$50 a quarter had a beneficial effect. In theory at least, this resulted in a continual decrease in the real value of the threshold, so that more and more domestic workers had coverage. For example, in the early 1950s, the \$50 limit represented about three to five full days of work, whereas at present in many cases it is only one day. So, over the long run, with a constant \$50 threshold and with the gradual deterioration in the value of the dollar (and the concomitant increase in nominal wages), coverage of domestic work would be virtually as complete as for employment in commerce and industry, for which there has never been a coverage threshold.

POSSIBLE CHANGE IN COVERAGE THRESHOLD FOR DOMESTIC WORKERS

Continuation of the present coverage threshold of \$50 in a calendar quarter, or annualization of it to \$200 in a calendar year so as to simplify its administration to an annual basis, would be possible. This would result in more coverage than would be the case if the limit were increased. However, this would still involve much administrative work and problems for little additional benefit protection for the workers involved. The question then is how far should the threshold be raised without too seriously reducing the benefit protection.

The provisions passed by the House in H.R. 2264 would increase the threshold such that it would be \$1,800 for 1994, and it would thereafter be indexed by the nationwide average wage. In my opinion, the resulting threshold would be too high and would seriously reduce the benefit protection for a category of workers who sorely need it.

The apparent "logic" of the \$1,800 threshold in 1994 seems to be as follows. First, the threshold of \$50 a quarter in 1951 was assumed to be equivalent to \$200 a year then. Second, \$200 of earnings in 1951 when indexed in the manner followed in the law for other elements is \$1,800 for 1994 (actually, as I calculate it, \$1,823).

The flaw in this "logic" is that earnings of \$50 a quarter in 1951 was, in general, a less strict requirement than one involving \$200 a year with regard to having the most earnings in the year be covered; in some instances, the reverse was so, while in other instances, they would both have produced the same result, but in the aggregate, I believe that the foregoing conclusion was the case. Accordingly, a lower figure than \$200 a year for 1951 should be used to be comparable with \$50 a quarter.

In any event, the quarterly and annual bases are not comparable, and so, a different "logic" for projecting the threshold to 1994 should be adopted.

I believe that a reasonable compromise between the basis under present law and that in the House bill is the provision in S. 1231 which would revert to the original theory of a threshold equal to the amount of earnings which is required for a quarter of coverage. For 1994, this will probably be \$610, whereas under the House bill, the threshold would be \$1,800.

OTHER ASPECTS OF COVERAGE THRESHOLD FOR DOMESTIC WORKERS

As indicated previously, I believe that the coverage limit for domestic workers should be changed so as to be on an annual basis. It should be administered through the income-tax procedures, by a separate schedule.

One problem which has existed in the past, and will likely continue in the future, is that many people have claimed that their domestic workers are self-employed or are employees of another person or a firm, rather than being their own employees. Although under some circumstances the situation may not be completely clear, it would seem that the vast majority of in-house domestic workers are employees of the homeowner, except when a large-scale cleaning service is involved. In order to prevent abuse of this loophole to evade coverage, I recommend that persons who have household work performed by workers whom they do not consider to be employees should report annually the name and Social Security number (either as an individual or as an employer) of all such persons or firms as are paid at least the coverage threshold.

Another problem in the area of coverage of domestic workers has been with regard to work performed by youth age 18 and under, such as babysitting and lawn-mowing. A very considerable amount of this work is now performed, and probably very little of it is reported as covered employment even though the "\$50 a quarter" coverage threshold is met. A higher coverage threshold would eliminate much of this work from being covered employment (which only rarely would have any effect on the benefit protection of the persons involved), but by no means all of it. Accordingly, I support the provision in S. 1231, under which all domestic work done by persons aged 18 or under would be excluded from coverage. A precedent for this is in the area of the delivery of newspapers by persons under age 18, which exclusion has been in the law for many years.

Finally, I suggest that study should be made as to the appropriate size of other dollar coverage thresholds for various employment categories which are now in the law on an unindexed basis. Perhaps these should be raised and then indexed annually. Or, on the other hand, maybe they should be left fixed in dollar terms (so that coverage is gradually increased over the years as nominal earnings rise), especially when administrative difficulties are not being caused thereby.

PREPARED STATEMENT OF BERT SEIDMAN

Good morning Chairman Moynihan and Members of the Senate Committee on Finance. My name is Bert Seidman and I am a member of the General Policy Board of the National Council of Senior Citizens (NCSC). In addition, until my retirement in 1990, I served as Director of the Department of Occupational Safety, Health and Social Security of the AFL-CIO. On behalf of our five million members and 4,000 local clubs and Councils, NCSC is happy to present our views today on S. 1231, the Domestic Employment Reform Act of 1993.

The National Council of Senior Citizens is very concerned with all components of the Social Security system. Social Security provides critical income security and health care benefits for 37 million beneficiaries. We view the protection offered by Social Security as important for all persons, but particularly those in low-wage and low-benefit industries such as domestic work. We are further concerned, given the fact that most domestic workers are women, of the impact lack of Social Security coverage has on the feminization of poverty among the elderly.

The National Council of Senior Citizens recognizes the legitimacy of raising the Social Security wage threshold and simplifying reporting requirements. In fact, we fully endorse Senator Moynihan's proposal to allow employers of domestic workers to use a simplified annual reporting procedure by filing their FICA tax payments for their employees on their personal tax returns (IRS form 1040). It can be expected that this would increase compliance and therefore expand Social Security benefit coverage for household workers.

However, simplification is not enough. The Social Security Administration (SSA) needs to do a better job in explaining to employers of domestic help their duties and obligations. Mr. Chairman, employers and employees who wish to comply with the

law are confronting the same problems that Social Security beneficiaries face. At previous hearings, the National Council of Senior Citizens has brought these problems to your attention--insufficient staffing levels and underfunding of SSA administrative expenses resulting in telephone busy signals, under trained staff, and a failure to publish and disseminate materials to the public. In recent months, our office has received numerous calls from employers of domestics and other household workers who want to comply with the law, but are finding it difficult to obtain the necessary information from SSA. Senators, to effectively deal with this problem, the Congress must not only adopt S. 1231, but move Social Security Administration expenses off-budget and partially restore the staffing cuts SSA suffered under the Reagan administration.

The second issue I would like to address is raising the threshold. NCSC is very cautious on this issue. We feel some relaxation of the threshold would be constructive, and that it would encourage increased compliance by employers, resulting in improved benefits for future claimants while having a neutral impact on the Trust Funds. Increasing the threshold to the equivalent of one quarter of coverage would be an acceptable level. Linkage for a quarter of coverage would also present an indexation of the threshold, preventing a return to the current situation where the amount is unrealistically low. In order to protect household workers who have multiple employers from lack of coverage by Social Security, we are very reluctant to raise it any higher. The current \$50 exemption was enacted in 1954 and was then equal to one quarter of coverage. Recreating this linkage would allow for an indexation of the exempt amount and ensure that no worker who qualified for a quarter of coverage would be denied such coverage. A higher amount would be particularly detrimental to workers with several employers, as is common in this line of work. NCSC suggests that, along with enacting such a relaxation and simplifying reporting, the SSA engage in a public education campaign to inform employers and employees of their rights and responsibilities.

We would, Mr. Chairman, like to suggest one improvement in the bill you have introduced. Exempting from FICA tax domestic workers who are at an age where it can be presumed they are not engaged in more than casual chores, such as occasional yard work or baby-sitting, will help create public respect for compliance, save both parties needless filing requirements and not cause any harm to the teenage worker. However, NCSC would suggest that the exemption apply to persons under the age of 16 rather than 18. We note that 16 is the age under which Child Labor laws offer protection.

COMMUNICATIONS

STATEMENT OF THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

Mr. Chairman, the National Committee to Preserve Social Security and Medicare supports the provision of your bill, S. 1231, to raise the threshold for payment of Social Security FICA taxes for domestic employees from the current \$50 a calendar quarter to an annual amount equal to a Social Security quarter of coverage. We also support your efforts to simplify compliance by authorizing employers to include FICA taxes for domestic employees on their own annual income tax returns.

Establishing the value of a quarter of coverage as a qualifier for inclusion of annual domestic earnings emphasizes to employer and employee alike the importance of being insured for Social Security. An increase in the threshold for payment of FICA taxes may be warranted, but the increase should be no more than is essential to improve taxpayer compliance with the law. We believe that objective can be achieved by setting the annual threshold at the dollar amount of a quarter of coverage (an estimated \$610 in 1994). To raise the threshold any higher unnecessarily threatens the retirement income of some of the most vulnerable members of our national work force.

The Income Status of Older Women, a briefing paper recently published by the National Eldercare Institute on Older Women, argues strongly against too precipitous an increase in the FICA tax base for domestic workers. The Institute's study found that although minority women spend many more years in the work force, they enter retirement with fewer quarters of Social Security coverage than non-minority women. Since domestics are predominantly minority women, householder tax avoidance or a lack of understanding of the tax obligation is a likely explanation of the current lack of coverage. That situation would be worsened by increasing the base to the \$1,800 as recommended by the House of Representatives.

The dollar amount of a quarter of coverage is large enough so as to relieve employers who find the \$50 threshold unduly onerous. At the same time, it is not so large as to encourage manipulation of work schedules to exclude fairly consistent earnings from taxation. Raising the threshold for payment of taxes to an amount as large \$1,800 in 1994, on the other hand, could discourage record keeping by householders whose employment of domestic workers was sporadic or episodic.

The Social Security Administration's efforts to acquaint workers with the requirement for 40 quarters of coverage to be fully insured for retirement benefits has familiarized the term "quarter of coverage." And the agency's annual publication of the new, indexed value of a quarter of coverage for the succeeding year has made almost as commonplace the knowledge that this figure changes each year with the rise in wages in the economy.

Raising the threshold by any amount will exclude some earnings on which taxes are now being paid. Even raising the threshold to \$610 next year will cause a loss of some earnings credits for nearly 20 percent of domestic workers for whom taxes are now paid. Workers for whom taxes are now being paid are being asked to forego credits for lesser annual earnings from any one employer in a tradeoff to gain greater compliance with the law. While we support an increase in the threshold as a realistic compromise between the current non-compliance and full coverage of earnings, it is important to recognize employees will pay a price for lost earnings credits. To minimize this loss of protection, particularly for those whose earnings of lesser amounts are now covered, we would like to see your bill amended to permit voluntary employer payment of FICA taxes on annual earnings of less than a quarter of coverage.

Mr. Chairman, we have serious misgivings about the provision of your bill to exclude from Social Security coverage the earnings of any domestic worker under the age of 18. Many young people enter the work force and earn valuable Social Security

credits prior to reaching age 18. Domestic work is honorable and worthwhile employment. Why should it be undervalued in comparison to other work performed by young persons. An equally important question is, what kind of precedent is being set when the age of the worker and the type of work performed become criteria for denying the protection of Social Security?

This hearing rightly highlights the adverse impact on retirement income when Social Security taxes are not paid on a domestic worker's earnings. But retirement is not the only protection Social Security offers. Disability and survivor benefit protection also are contingent on quarters of coverage. We don't like to think of young persons being vulnerable to disability and death, but tragedies afflict both young and old. Quarters of coverage earned by a worker under age 18 could carry even greater value for disability and survivor benefit protection than quarters of coverage earned at older ages. A young mother, for example, who worked from 16 to 21 and then left the work force to raise a family would have Social Security survivor protection for her dependents until she herself was 42 years of age. If she earned no credits for work from 16 to 18, however, protection for her dependents would expire when she reached age 34.

